

# MASSACHUSETTS WORKERS' COMPENSATION ADVISORY COUNCIL

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# APPENDIX A

## ADVISORY COUNCIL MEMBERS - FY'04

<i><b>BUSINESS</b></i>		<i><b>LABOR</b></i>	
<p><b>TOM JONES</b> Vice President of Employer Services, AIM 222 Berkeley Street, P.O. Box 763 Boston, MA 02117-0763 Tel: (617) 262-1180 FAX: (617) 536-6785</p> <p><b>JEANNE-MARIE BOYLAN</b> Boston Sand and Gravel Company 169 Portland Street Boston, MA 02114-1712 Tel: (617) 227-9000 FAX: (617) 523-7947</p> <p><b>ANTONIO FRIAS</b> S &amp; F Concrete Contractors, Inc. 1266 Central Street, P.O. Box 427 Hudson, MA 01749 Tel: (978) 562-3495 FAX: (978) 562-9461</p> <p><b>EDMUND C. CORCORAN, JR.</b> Raytheon, Director of Integrated Disability Programs 47 Foundry Avenue Waltham, MA 02453 Tel: (781) 642-2612 FAX: (781) 642-2628</p> <p><b>VACANT</b></p>		<p><b>PAUL BYRNE</b> MBTA Police Association P.O. Box 1618 N. Falmouth, MA 02556 Tel: (617) 201-3820 FAX: (617) 268-4401</p> <p><b>ROBERT BANKS</b> J.A.C. Iron Workers, Local 7 195 Old Colony Avenue South Boston, MA 02127 Tel: (617) 268-4200 FAX: (617) 268-0330</p> <p><b>MICKEY LONG</b> J.A.C. Iron Workers, Local 7 193 Old Colony Avenue, P.O. Box E-1 Boston, MA 02127 Tel: (617) 269-0229 FAX: (617) 269-0567</p> <p><b>JOHN A. PULGINI</b> Pulcini &amp; Norton, LLP 10 Forbes Road West, Suite 240 Braintree, MA 02184 Tel: (781) 843-2200 FAX: (781) 843-4900</p> <p><b>VACANT</b></p>	
<i><b>EX-OFFICIO</b></i>		<i><b>EX-OFFICIO</b></i>	<i><b>EX-OFFICIO</b></i>
<p><b>ANGELO R. BUONOPANE</b> Director, Dept. of Labor 600 Washington Street, 7th Floor Boston, MA 02111 Tel: (617) 727-4900 x356 FAX: (617) 727-7470</p>		<p><b>JANE C. EDMONDS</b> Director, Dept. of Workforce Dev. One Ashburton Place, Suite 2112 Boston, MA 02108 Tel: (617) 727-6573 FAX: (617) 727-1090</p>	<p><b>BARBARA B. BERKE</b> Director, Dept. of Bus. &amp; Tech. One Ashburton Place, Suite 2101 Boston, MA 02108 Tel: (617) 727-8380 FAX: (617) 727-4426</p>
<i><b>CLAIMANT'S BAR</b></i>		<i><b>INSURANCE</b></i>	<i><b>VOCATIONAL REHAB.</b></i>
<p><b>ALAN S. PIERCE</b> Alan S. Pierce &amp; Associates 27 Congress Street Salem, MA 01970 Tel: (978) 745-0914 FAX: (978) 745-1046</p>		<p><b>J. BRUCE COCHRANE</b> Cochrane and Porter 981 Worcester St. Wellesley, MA 02482 Tel: (781) 431-9800 FAX: (781) 431-0222</p>	<p><b>CAROL FALCONE</b> Falcone Associates 43 Witham Street, Suite 2 Gloucester, MA 01930 Tel: (978) 281-4275 FAX: (978) 281-4275</p>
<i><b>STAFF</b></i>			
<p><b>ANDREW S. BURTON, Executive Director</b> <b>EVELYN N. FLANAGAN, Program Coordinator</b> <b>ANN M. HELGRAN, Paralegal</b></p>			

## APPENDIX B

# Agenda of Advisory Council Meetings - FY'04

### **July 9, 2003**

DIA Update

Action Items

- Minutes - June 11, 2003

Compensation Review System (CRS)

Workers' Compensation Legislation Discussion

Executive Director Update

Miscellaneous

### **August 6, 2003**

DIA Update

Action Items

- Minutes - July 9, 2003

Budget Subcommittee Update

Executive Director Update

Miscellaneous

### **September 10, 2003**

DIA Update

Stop Work Order (SWO) Pilot Project

- John Zimini, Office of Investigations

Action Items

- Minutes - August 6, 2003

Executive Director Update

Miscellaneous

### **October 8, 2003**

DIA Update

Action Items

- Minutes - September 10, 2003

Oracle Case Management System Presentation

Executive Director Update

Miscellaneous

### **November 12, 2003**

DIA Update

Action Items

- Minutes - October 8, 2003

Presentation of Annual Survey of Occupational Injuries and Illness

- Director Robert J. Prezioso, Division of Occupational Safety

Concerns & Recommendations

Executive Director Update

Miscellaneous

### **December 10, 2003**

DIA Update

Second Injury Fund (§37 and §37A) Process and Procedure

- Yvonne Vieira-Cardoza, Deputy General Counsel

Action Items

- Minutes - October 8, 2003 / Minutes - November 12, 2003

Executive Director Update

Miscellaneous

### **January 14, 2004**

DIA Update

Assessment Audit Update

- Karen Fabiszewski, Assistant General Counsel, Workers' Compensation Trust Fund

Action Items

- Minutes - October 8, 2003 / Minutes - November 12, 2003 / Minutes - December 10, 2003

Fiscal Year 2003 Annual Report - Final Approval

Executive Director Update

Miscellaneous

### **February 11, 2004**

DIA Update

Oracle Presentation - Tom Budnar (Oracle)

Action Items

- Minutes - January 14, 2004

Draft Guidelines - Qualifications of Judicial Candidates

Commerce & Labor Executive Session

Executive Director Update

Miscellaneous

### **April 14, 2004**

DIA Update

Action Items

- Minutes - January 14, 2004 / Minutes - February 11, 2004

Budget Subcommittee Update - Tom Jones

Executive Director Update

Miscellaneous

Executive Session

- State Audit Subcommittee Update - Carol Falcone

### **May 12, 2004**

DIA Update

Action Items

- Minutes - April 14, 2004

Study Evaluating Competitive Pricing for Workers' Comp in MA

Discussion on Legal Opinion Re: Special Reserve Account

Executive Director Update

Miscellaneous

### **June 9, 2004**

DIA Update

Action Items

- Minutes - April 14, 2004 / Minutes - May 12, 2004

House Bill 4552 - Assigned Risk Pool - Pilot Project for TPAs

Executive Director Update

## APPENDIX C

### Joint Committee on Commerce & Labor - FY'04

**Senator John A. Hart, Jr.** (Chair)  
State House - Room 109C  
Boston, MA 02133-1053  
(617) 722-1150

**Senator Thomas M. McGee**  
State House - Room 74  
Boston, MA 02133-1053  
(617) 722-1350

**Senator Susan C. Tucker**  
State House - Room 424  
Boston, MA 02133-1053  
(617) 722-1058

**Rep. Michel J. Rodrigues** (Chair)  
State House - Room 43  
Boston, MA 02133-1053  
(617) 722-2030

**Representative Demetrius J. Atsalis**  
State House - Room 167  
Boston, MA 02133-1053  
(617) 722-2692

**Representative Patricia D. Jehlen**  
State House - Room 275  
Boston, MA 02133-1053  
(617) 722-2676

**Representative Stephen P. LeDuc**  
State House - Room 527A  
Boston, MA 02133-1053  
(617) 722-2915

**Rep. Christopher P. Asselin**  
State House - Room 540  
Boston, MA 02133-1053  
(617) 722-2090

**Representative Robert Spellane**  
State House - Room 43  
Boston, MA 02133-1053  
(617) 722-2370

**Senator David P. Magnani**  
State House - Room 323  
Boston, MA 02133-1053  
(617) 722-1640

**Senator Michael W. Morrissey**  
State House - Room 413-D  
Boston, MA 02133-1053  
(617) 722-1055

**Senator Brian P. Lees**  
State House - Room 308  
Boston, MA 02133-1053  
(617) 722-1291

**Representative Jennifer M. Callahan**  
State House - Room 236  
Boston, MA 02133-1053  
(617) 722-2430

**Representative Mark A. Howland**  
State House - Room 443  
Boston, MA 02133-1053  
(617) 722-2460

**Representative Michael F. Rush**  
State House - Room 437  
Boston, MA 02133-1053  
(617) 722-2460

**Representative Lewis G. Evangelidis**  
State House - Room 443  
Boston, MA 02133-1053  
(617) 722-2460

**Representative Paul J. Loscocco**  
State House - Room 254  
Boston, MA 02133-1053  
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## APPENDIX D

### Industrial Accident Nominating Panel

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Mass. AFL-CIO  
389 Main Street, Suite 101  
Malden, MA 02148  
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Room 271 - State House  
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600 Washington Street  
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## APPENDIX E

### The Governor's Council

Room 184, State House  
Boston, MA 02133  
(617) 725-4015

The Massachusetts Governor's Council, also known as the Executive Council, is comprised of eight individuals elected from districts, and the Lt. Governor who serves ex officio. The eight councilors are elected from their respective districts every two years. Each councilor is paid \$15,000 annually plus certain expenses.

The Council generally meets at noon on Wednesdays in the State House Chamber, next to the Governor's Office, to act on such issues as payments from the state treasury, criminal pardons and commutations, and approval of gubernatorial appointments; such as judges, notaries, and justices of the peace.

The Governor's Council is responsible for approving all Administrative Judges and Administrative Law Judges at the Division of Industrial Accidents.

**Michael J. Callahan**  
500 Salem Street  
Medford, MA 02155  
Res: (781) 393-9890

**Christopher A. Iannella**  
263 Pond Street  
Boston, MA 02130  
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**Carol A. Fiola**  
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Fall River, MA 02720  
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**Dennis P. McManus**  
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Worcester, MA 01605  
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**Marilyn M. Petitto Devaney**  
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Watertown, MA 02472  
Res: (617) 923-0778

**Edward M. O'Brien (deceased)**  
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Easthampton, MA 01027  
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**Mary-Ellen Manning**  
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Bus: (978) 531-6363

**Kelly A. Timilty**  
15 Virgil Road  
West Roxbury, MA 02132  
Bus: (617) 325-7366  
Bus: (781) 828-6363

## APPENDIX F

### Health Care Services Board

#### **Current Members (2003):**

Dean M. Hashimoto, MD, JD (Chair)	<i>Ex-Officio Member</i>
Henry W. DiCarlo, MM (Vice-Chair)	<i>Employers' Representative</i>
David S. Babin, MD	<i>Physician Representative</i>
Robert A. Gundersen	<i>Hospital Administrative Representative</i>
Peter A. Hyatt, DC	<i>Chiropractic Representative</i>
Robert P. Naperstek, MD	<i>Physician Representative</i>
Barbara C. Mackey, MS, APRN	<i>Public Representative</i>
L. Christine Oliver, MD	<i>Physician Representative</i>
Cynthia M. Page, PT	<i>Physical Therapist Representative</i>
Janet D. Pearl, MD, MSC	<i>Physician Representative</i>
Nancy Lessin	<i>Employee Representative</i>
Richard P. Zimon, MD, FACP	<i>Physician Representative</i>

#### **Staff:**

Catherine R. Farnam, RN, MS, CS	<i>Executive Director</i>
Judith A. Atkinson, Esq.	<i>Counsel</i>
Hella Dalton	<i>Research Analyst</i>

**All members can be reached c/o:**

Division of Industrial Accidents  
Health Care Services Board  
600 Washington Street, 7th Floor  
Boston, MA 02111  
Tel: (617) 727-4900 x310 or x574  
Fax: (617) 348-2176



## APPENDIX G

### Roster of Judicial Expiration Dates

#### ***INDUSTRIAL ACCIDENT REVIEWING BOARD - SIX YEAR TERMS***

1.	Martine Carroll	Unenrolled	05/28/10
2.	Bernard Fabricant	Republican	05/28/10
3.	Mark Horan	Democrat	06/10/10
4.	William McCarthy	Democrat	05/21/10
5.	Patricia Costigan	Unenrolled	06/03/10
6.	<VACANT>	<N/A>	05/28/04

#### ***INDUSTRIAL ACCIDENT BOARD - SIX YEAR TERMS***

1.	Douglas Bean	Republican	06/26/05
2.	Michael Chadinha	Republican	05/28/10
3.	David Chivers	Republican	05/21/10
4.	William Constantino	Republican	06/13/07
5.	Lynn Brendemuehl	Unenrolled	07/06/06
6.	David Sullivan	Democrat	05/21/10
7.	Steven Rose	Republican	05/28/10
8.	Richard Heffernan	Democrat	09/04/09
9.	John Preston	Republican	07/29/06
10.	James LaMothe	Republican	01/31/09
11.	Roger Lewenberg	Republican	06/26/10
12.	Fred Taub	Democrat	08/03/06
13.	Douglas McDonald	Democrat	07/06/06
14.	Bridget Murphy	Republican	07/27/06
15.	Maureen McManus	Republican	05/28/10
16.	Herbert Dike	Republican	07/05/08
17.	Dianne Solomon	Unenrolled	08/10/06
18.	<VACANT>	<N/A>	05/28/04
19.	Omar Hernandez	Democrat	12/29/05
20.	Richard Tirrell	Democrat	05/14/10
21.	Frederick Levine	Unenrolled	09/18/10

## Testimony: Workers' Compensation Advisory Council

Joint Committee on Commerce & Labor Hearing  
State House – Gardner Auditorium  
July 24, 2003

Good morning. My name is Tom Jones and I am testifying in my capacity as Chairman of the Massachusetts Workers' Compensation Advisory Council. When I am not volunteering my time for the Council, I serve as the Vice President and Counsel of the Employer's Resource Group for Associated Industries of Massachusetts. I am also joined by Andrew Burton who serves as our Executive Director.

The Advisory Council is a Governor-appointed Board comprised of leaders from business and labor, as well as representatives from the legal, medical, insurance and vocational rehabilitation communities. Each month, Council Members come together to discuss a variety of workers' compensation issues with the ultimate goal of identifying problems and developing solutions. When the affirmative vote of at least seven members can be reached between business and labor, these positions are reflected in our recommendations.

It has been twelve years since the enactment of the Workers' Compensation Reform Act of 1991 and the Massachusetts Workers' Compensation System continues to benefit. However, the Advisory Council believes that the passage of certain bills would further complement the system for injured workers, employers and insurers.

The Council supports **House Bill 2924**, filed by Representative Koczera, which would "naturally" stagger judicial terms at the DIA by making the initial appointment of all Administrative Judges (AJ's) for six-year terms. Currently, the statute provides that any judge appointed to fill a vacancy, occurring prior to the expiration of a term, must be appointed for the unexpired portion of that term. With as many as nine AJ's and all six ALJ's terms expiring next year, the Advisory Council believes future delays to the system can be prevented with the passage of this bill. This proposed legislation also creates a system of performance review for newly appointed Administrative Judges. The Senior Judge would be required to conduct a performance review after two years into an AJ's initial term. Only in the event that a performance review recommended against the continuation of a term would it be forwarded to the Governor for appropriate removal action if deemed necessary.

The Council also endorses **House Bill 2380**, filed by Representative Cabral, which would subject the Senior Judge, the Administrative Judges, and the Administrative Law Judges to a judicial code of conduct. We would like to offer an amendment to this legislation that would substitute the American Bar Association's (ABA's) Model Code of Judicial Conduct for State Administrative Law Judges, in lieu of the current language as set forth by the Supreme Judicial Court (SJC). Although both codes exhibit similar ethics, the ABA code will most appropriately serve DIA judges, as they are technically not members of the constitutional

judiciary, but rather the executive branch of government. The Council believes that the DIA's 6-year appointed administrative judges should not be bound to the same code of ethics as judicial life appointees. The passage of this bill will enhance the authority that administrative judges exercise over the fate of injured employees and employers, helping to ensure the fair administration of justice.

The Council also endorses **House Bill 2382**, filed by Representative Cabral, which would eliminate the requirement that scar-based disfigurement appear on the face, neck or hands to be compensable. If passed, this legislation would rightfully compensate workers for all disfigurement, whether or not scar-based, regardless of its location on the body, subject to a \$15,000 maximum benefit. In 2000, the Advisory Council asked the actuarial firm Tillinghast - Towers Perrin to estimate the impact on workers' compensation costs of restoring scarring awards to their pre-chapter 398 level. Although Tillinghast was unable to quantify the impact of such a proposed revision due to incomplete data, they suggested that it would have a "relatively minimal impact on system costs."

Finally, the Council has voted to endorse the concept of **House Bill 2205**, filed by Representative Walsh. This bill would provide a vehicle for both private citizens and insurers to bring forth a civil action against employers who illegally fail to pay workers' compensation premiums as mandated by Chapter 152. On suits brought forth by private citizens, the majority of the damages would be deposited into the DIA's Special Fund to pay for the agency's operating expenses. Insurance carriers would be able to recover the full amount of the award in situations where they obtain court approval to replace the private citizens in the lawsuit. The Advisory Council believes that the concept of this legislation will help alleviate the competitive disadvantage faced by the vast majority of honest employers who purchase workers' compensation policies, when their competitors may not. The Advisory Council is only supporting this bill in concept due to the fact that additional changes are expected to be made. We welcome the opportunity to work with the legislature in the refinement of this bill.

On behalf of the Advisory Council, I would like to thank the Joint Committee on Commerce & Labor for holding this hearing and allowing us the opportunity to share our recommendations. However, it is important to note that the Advisory Council reserves the right to remove any endorsement on a specific bill if altered or attached to other legislation not supported by the Council. Any effort to amend the workers' compensation system must be carefully scrutinized to ensure that changes to the statute will build upon the successful aspects of the system, benefiting both injured workers and employers.

Thank you for the consideration of our recommendations.

We will be happy to answer any questions.

## Testimony: Workers' Compensation Advisory Council

Office of Commerce & Labor  
State House – Gardner Auditorium  
February 12, 2003

Good morning. My name is Tom Jones, Chair of the Massachusetts Workers' Compensation Advisory Council. I am joined by William Carnes, Vice Chair of the Council. I am also joined by Andrew Burton who serves as our Executive Director. Mr. Carnes is the Vice President and Business Agent of Local 25 of the Teamsters Union and represents the interests of labor on the Council. I am the Vice President and Counsel of the Employer's Resource Group for Associated Industries of Massachusetts and represent the interests of business on the Council.

The Advisory Council is a volunteer board comprised of leaders from labor and business, as well as representatives from the legal, medical, insurance and vocational rehabilitation communities. Each month, Council Members come together to discuss a variety of workers' compensation issues with the ultimate goal of reaching a consensus. When compromise can be reached between labor and business, these positions are reflected in our recommendations.

We are here today to describe the Division of Industrial Accidents and express our concerns regarding how the DIA's line-item is treated during the Commonwealth's budget process. A common misconception made is that the DIA is a tax-funded agency and that reducing its funding, specifically across the board cuts, will help alleviate budget shortfalls in Massachusetts. This is entirely untrue.

As exhibited in the attached chart, the DIA administers three separate budgets, which are funded solely by assessments on workers' compensation policies, fines for various infractions against the Workers' Compensation Act, and fees. The three funds are made up of the Special Fund, the Private Trust Fund, and the Public Trust Fund. The Special Fund is used to pay for the operation of the agency. The Trust Funds were established so the DIA can make payments to uninsured-injured employees and employees denied vocational rehabilitation services by their insurers. In addition, the Trust Fund is required to reimburse insurers for benefits for injuries involving veterans, second injuries, and for specified cost of living adjustments. One account is reserved for payments to private sector employees, while the other account is for payments to public sector employees.

During the fiscal year 2002 budget process, the Legislature's Budget Conference Committee reduced the DIA's line-item by over \$1.0 million as a result of an across the board cut from all previous amounts proposed. Although the Governor later restored this funding in a supplemental budget, the overall efficiency and effectiveness of the DIA in

assisting injured workers was jeopardized when the DIA's account was apparently misconstrued and treated as a tax-funded agency rather than a totally assessment-funded organization.

In the Workers' Compensation Reform Act of 1985, the Commonwealth's employer community agreed to be assessed to pay for the DIA to ensure that it would always have adequate funding to fulfill its mandate. As part of that agreement, the law also established the Workers' Compensation Advisory Council as an oversight board to monitor and evaluate the DIA's operating budget and performance. The Advisory Council remains committed in monitoring the fiscal year 2004 budget process to ensure the DIA can provide effective services to injured workers and to all employers. Any effort to increase or decrease the DIA's funding will be carefully scrutinized to ensure that the agency will have adequate funding to fulfill its statutory mandate.

In closing, the Advisory Council would like all parties involved in the state budget process to recognize that the DIA is funded by an assessment on employers which is based on an amount determined to be adequate for the operation of the DIA. There are **no tax dollars** used to fund this agency or any of its activities, as the DIA's Special Fund is used to reimburse the Commonwealth's General Fund for 100% of its budgeted appropriation.

On behalf of the Advisory Council, I would like to thank the Office of Commerce & Labor for holding this hearing and allowing us the opportunity to share our recommendations. We will be happy to answer any questions.

## APPENDIX J

### **Guidelines for Reviewing the Qualifications of Judicial Candidates**

**(Revised: August, 2004)**

As the Massachusetts Workers' Compensation Advisory Council is charged with reviewing the qualifications of candidates for the position of administrative judge and administrative law judge at the Division of Industrial Accidents, the following guidelines are adopted to assist the Council in evaluating and rating candidates.

**A. Information Distribution:** Any information regarding a candidate, compiled by the Industrial Accident Nominating Panel, that is transmitted to the Advisory Council will be mailed, faxed, or delivered to the Advisory Council members. In the event this information cannot be provided to the Advisory Council members before an interview takes place, it will be provided at the interview.

**B. Paper Review - Sitting Judges:** Sitting Judges, seeking reappointment or appointment to a new position, who receive a favorable recommendation from the Senior Judge, will not be required to formally interview before the Council. The Advisory Council will vote on the qualifications of these Judges by reviewing any information provided by the Industrial Accident Nominating Panel. However, the Chair may, in his discretion or upon a vote of the majority of the Council members, require a sitting Judge to appear before the Council for an interview.

**C. Paper Review - Nomination Pool Candidates:** Any candidate who is currently serving in the Nomination Pool and reapplies for a judgeship will not be required to formally interview before the Council. The Advisory Council will vote on the qualifications of these candidates by reviewing any information provided by the Industrial Accident Nominating Panel. However, the Chair may, in his discretion or upon a vote of the majority of the Council members, require a Nomination Pool candidate to appear before the Council for an interview.

**D. Interview Notification to Candidates:** All other candidates, not mentioned in (B) or (C), will be formally interviewed by the Advisory Council. Said candidates will be notified by the Executive Director by telephone regarding the date, time, and location of the interviews.

**E. Advisory Council Interviews:** The Council will convene in Executive Session for the interview process. Each candidate must be prompt for their scheduled interview time. Each candidate will be allotted no more than 15 minutes for their interview. Council members will use nameplates for identification purposes and will forego introducing themselves to each candidate. The Chair will ask the candidates to briefly introduce themselves, state their qualifications, and their reasons for seeking the position. Upon recognition of the Chair, both voting and non-voting members may ask questions

of the candidates. Council members will use discretion in limiting questioning to the most pertinent concerns.

**F. Voting Procedure:** Upon determining a candidate's qualifications, pursuant to section 9 of chapter 23E, council members shall make a clear distinction of those candidates who have never served on the Industrial Accident Board, from those who are Sitting Judges, seeking reappointment or appointment to a new position. In conjunction with the Advisory Council's findings, it shall be noted that the judicial ratings of new candidates cannot and should not be compared to the judicial ratings of Sitting Judges.

Upon the completion of all interviews for each meeting, the Chair will ask for a motion on each candidate in the order in which they were interviewed. The Chair will first recognize only motions that rate the candidate as either "Qualified" or "Unqualified." If a motion for "Unqualified" passes, the Chair may recognize a "Motion to Reconsider" or shall move to the next candidate. If a motion for "Qualified" passes, a Council member may motion that the candidate be rated "Highly Qualified." A candidate must receive 7 affirmative votes for any motion to pass.

**G. Proxy Votes:** Voting by proxy is permitted. The Executive Director will contact each voting member prior to the interviews to obtain a proxy in the event said member is unable to attend. Voting members may direct their proxy how to vote on any candidate.

**H. Transmission of Findings:** After each meeting, the Chair shall address letters in alphabetical order to the Governor's Chief Legal Counsel advising him/her of the findings of the Council regarding each candidate. Each letter shall state that the qualifications of the candidate were reviewed, that an interview was conducted if necessary, and shall state the rating of the Council. In the event information was lacking on a particular candidate, this will be stated in the letter. In the event Council members could not agree as to "Qualified," "Unqualified," or "Highly Qualified" for any candidate, then the letter shall state that the Council could not reach a consensus on the qualifications for that candidate.

**I. Request for Additional Time:** In circumstances where the Advisory Council believes it has "good cause" to request additional time to review the candidates, beyond the one week time limit allotted in Executive Order No. 456, the Chair may contact the Governor's Chief Legal Counsel stating such reasons. The Chair will contact the Governor's Chief Legal Counsel by letter, phone, or fax, depending upon the urgency of the request.

## APPENDIX K

### Workers' Compensation Organizations

The following are government, private, and non-profit organizations that have a role in the Massachusetts workers' compensation system. Many of the organizations below are advocacy groups funded by a specific group to represent and promote their particular view.

This is meant to be informative only, and is by no means an exhaustive list of all groups involved with workers' compensation. Inclusion of an organization's name does not indicate an endorsement of any particular viewpoint or organization, nor does it relate to their effectiveness or reliability in advocating a particular view.

The categories are Massachusetts State Government, Insurance, Medical, Public Policy/Research, Fraud, Safety, Legal, and Federal Government/National Organizations.

#### *Massachusetts State Government*

##### **Massachusetts Workers' Compensation Advisory Council (WCAC)**

600 Washington Street, Boston, MA 02111

Phone: 617-727-4900 x378 Web Page: <http://www.mass.gov/wcac/>

The Advisory Council is a labor-management committee appointed by the Governor to monitor, make recommendations, give testimony, and report on all aspects of the workers' compensation system, except the adjudication of particular claims or complaints, and to improve the workers' compensation system in the Commonwealth.

##### **Division of Industrial Accidents (DIA)**

600 Washington Street, Boston, MA 02111 (Boston Office)

Phone: 617-727-4900 Info: 800-323-3249 x470 Web Page: <http://www.mass.gov/dia/>

The Division of Industrial Accidents administers the Commonwealth's workers' compensation system. The DIA provides prompt and rational compensation to victims of occupational injuries and illness, and oversees that medical treatment to injured workers is provided in a timely manner while balancing the needs of employers to contain workers' compensation insurance costs.

##### **Joint Committee on Commerce and Labor**

State House, Room 43, Boston, MA 02133

Phone: 617-722-2030 Web Page: <http://www.mass.gov/legis/comm/j12.htm>

The Joint Committee on Commerce and Labor consists of elected state representatives and senators. It is their duty to consider all matters concerning commercial, industrial and mercantile establishments, industrial development, consumer protection, and discrimination with respect to employment, labor laws and other such matters.

##### **Office of the Governor**

State House, Room 360, Boston, MA 02133

Phone: 617-727-7238 Web Page: <http://www.mass.gov/gov>

The Governor appoints the Directors of Labor & Workforce Dev., the Director of Economic Development, the Commissioner of the DIA, Administrative Judges and Administrative Law Judges of the DIA, as well as the members of the Workers' Compensation Advisory Council.



**Division of Occupational Safety**

399 Washington Street, 5th floor, Boston, MA 02108

Phone: 617-727-7047 Web Page: <http://www.mass.gov/dos/>

The Division of Occupational Safety administers several workplace safety and health programs, all focused on the goal of having every worker return home safe and healthy each day. Part of this agency's mission is the effective administration and enforcement of the employment agency laws in Massachusetts; the issuance of prevailing wage schedules for many public works projects; the promulgation and interpretation of the state's minimum wage regulations; and the issuance of minimum wage, seasonal business overtime, and uniform deposit waivers.

**Governor's Council**

State House, Room 184, Boston, MA 02133

Phone: 617-725-4015 Web Page: <http://www.mass.gov/gov/govco.htm>

The Massachusetts Governor's Council, also known as the Executive Council, is composed of eight individuals elected from districts, and the Lt. Governor who serves ex officio. The eight councilors are elected from their respective districts every two years. The Council generally meets at noon every Wednesday in the State House Chamber, next to the Governor's Office, to act upon such issues as payments from the state treasury, criminal pardons and commutations, and approval of gubernatorial appointments; such as judges, notaries, and justices of the peace. All DIA judges are appointed by the Governor subject to the consent & approval of the Governor's Council.

**Departments of Labor and Workforce Development**

One Ashburton Place, Room 212, Boston, MA 02108

Phone: 617-727-6573 Web Page: <http://www.mass.gov/dlwd/>

The Departments of Labor and Workforce Development are responsible for overseeing the Commonwealth's workforce development system, for protecting the health and safety of Massachusetts workers, for ensuring the efficient delivery of workers compensation services, for supervising the unemployment insurance program, and for providing dispute resolution services in various arenas. The Division of Industrial Accidents is one of the five departments that fall under the Departments of Labor & Workforce Development. The Director of Labor is an ex-officio member of the Workers' Compensation Advisory Council.

**Massachusetts Rehabilitation Commission (MRC)**

59 Temple Place, Boston, MA 02111

Phone: 617-201-3600 Web Page: <http://www.mass.gov/mrc/>

The mission of the MRC is to provide comprehensive services with and for persons with disabilities toward the goal of employment and independence. In cooperation with other public and private human service organizations, the MRC promotes its ultimate vision of equality, empowerment and productive independence of individuals with disabilities.

**Department of Business and Technology**

One Ashburton Place, Boston, MA 02108

Phone: 617-727-8380 Web Page: <http://www.mass.gov/dbt/>

The Department of Business & Technology seeks to promote job creation and long-term economic growth in Massachusetts. It seeks to attract new businesses to the state, helps existing businesses expand, assist emerging firms in obtaining the human, financial, and technological resources necessary to prosper and grow, and provide assistance and training to the unemployed and underemployed. The Director of Business & Technology is an ex-officio member of the Workers' Compensation Advisory Council.

### **Office of the Attorney General**

One Ashburton Place, Boston, MA 02108

Phone: 617-727-2200 Web Page: <http://www.mass.gov/ago/>

The Attorney General's office prosecutes workers' compensation fraud and enforces state labor laws. It also held a series of meetings for its task force on waste, fraud, and abuse in the workers' compensation system. A series of "White Papers" are available from the office on issues brought up at those meetings.

## **Insurance**

### **Division of Insurance (DOI)**

One South Station, 5<sup>th</sup> floor, Boston, MA 02110-2208

Phone: 617-521-7794 Web Page: <http://www.mass.gov/doi/>

The DOI regulates all insurance programs and monitors and licenses self-insurance groups. The **State Rating Bureau** is an office within the DOI that testifies at rate hearings with respect to insurance rates. The Commissioner of DOI holds hearings on rate filings and issues a decision.

### **DIA - Office of Insurance**

600 Washington Street, Boston, MA 02111

Phone: 617-727-4900 x371 Web Page: <http://www.mass.gov/dia/>

Issues annual licenses for self-insurance; monitors insurance complaints; maintains the insurer register.

### **DIA - Office of Investigations**

600 Washington Street, Boston, MA 02111

Phone: 617-727-4900 x406 Web Page: <http://www.mass.gov/dia/investigation/index.htm>

Hot Line: 1-877-MASSAFE

Issues stop work orders and fines employers without workers' compensation insurance.

### **The Workers' Compensation Rating and Inspection Bureau of Massachusetts (WCRIB)**

101 Arch Street, 5<sup>th</sup> floor, Boston, MA 02110

Phone: 617-439-9030 Web Page: <https://www.wcribma.org/mass/>

Private non profit body funded by insurers;

- Licensed rating organization for workers' compensation; WCRIB submits workers' compensation insurance rates, rating plans, and forms for approval (rates are subject to approval by the Commissioner of Insurance);
- WCRIB is the statistical agent for workers' compensation for the Commissioner of Insurance;
- Administers assigned risk pool; designates insurance carriers for employers who cannot obtain policy in voluntary market;
- Collects statistical data from insurers;
- NCCI handles some of the accounting procedures for the pool.

**National Council on Compensation Insurance (NCCI)**

750 Park of Commerce Drive, Boca Raton, FL 33487

Phone: 800-622-4123 Web Page: <http://www.ncci.com>

NCCI is a national organization devoted to workers' compensation insurance. It has a somewhat limited role in Massachusetts:

- Does some of the accounting for the assigned risk pool under contract with the WCRIB;
- Determines residual market loss reserves.
- In 34 other states, NCCI is the organization that files for insurance rates or loss costs (in Massachusetts, it is the WCRIB that files for rate changes);
- NCCI also administers various state funds where the state acts as an insurance carrier for workers' compensation.

**Medical**

**Division of Health Care Finance and Policy**

2 Boylston Street, Boston, MA 02116-4737

Phone: 617-988-3100 Web Page: <http://www.mass.gov/dhcfp/>

The Division of Health Care Finance and Policy (formerly the Rate Setting Commission) sets reimbursement rates for medical services in workers' compensation.

**DIA - The Health Care Services Board**

Phone: 617-727-4900 x310 Web Page: <http://www.mass.gov/dia/hcsb/>

This office coordinates the utilization review program, the Medical Consultant Consortium, and the Health Care Services Board at the DIA.

**Massachusetts Medical Society**

860 Winter Street, Waltham Woods Corporate Center, Waltham, MA 02451-1411

Phone: 781-893-4610 / 781-893-3800 Web Page: <http://www.massmed.org/>

Private, non-profit professional association represents the Massachusetts physician community.

**Massachusetts Hospital Association**

5 New England Executive Park, Burlington, MA 01803

Phone: 781-272-8000 Web Page: <http://www.mhalink.org>

The Massachusetts Hospital Association (MHA) is a voluntary, non-profit organization comprised of hospitals and health systems, related organizations, and other members with a common interest in promoting the health of the people in the Commonwealth.

**Massachusetts Orthopedic Association**

45 Broad Street, Boston, MA 02109

Phone: 617-451-9663

Private, non-profit professional association representing physicians practicing in the specialty area of orthopedic surgery.

**Massachusetts Chiropractic Society**

76 Woodland Street, Methuen, MA 01844-4295

Phone: 978-682-8242 / 800-442-6155 Web Page: <http://www.masschiro.org>

The Massachusetts Chiropractic Society a non-profit membership service organization representing the chiropractic profession in Massachusetts. The Society's principle function is to maintain the standards in education, ethics, and professional competency necessary to meet the requirements of the profession and the expectations of the general public.

**American Physical Therapy Association of Massachusetts**

14 Beacon Street, Suite 719, Boston, MA 02108

Phone: 617-523-4285 National Chapter: 800-999-2782 Web Page: <http://aptaofmass.org>

The American Physical Therapy Association of Massachusetts Inc., with more than 2200 members, is a component of the American Physical Therapy Association. APTA's goal is to foster advancement in physical therapy practice, education, and research.

**American Occupational Therapy Association (AOTA)**

4270 Montgomery Lane, P.O. Box 31220, Bethesda, MD 20824-1220

Phone: 301-652-2682 Web Page: <http://www.aota.org>

The American Occupational Therapy Association (AOTA) supports the professional community for occupational therapists and develops and preserves the viability and relevance of the profession. The organization serves the interests of its members, represents the profession to the public, and promotes access to occupational therapy services.

**Massachusetts Occupational Therapy Association (MAOT)**

57 Madison Road, Waltham, MA 02453-6718

Phone: 781-647-5556 Web Page: <http://www.maot.org>

The Massachusetts Association for Occupational Therapy provides a professional network for its members and develops and preserves the profession. MAOT serves the interests of its members, represents the profession to the public and promotes access to occupational therapy.

## **Public Policy / Research**

**Workers' Compensation Research Institute (WCRI)**

955 Massachusetts Avenue, Cambridge, MA 02139

Phone: 617-661-9274(WCRI) Web Page: <http://www.wcrinet.org>

WCRI is a nonpartisan, non-profit public policy research organization funded primarily by employers and insurers. The WCRI research takes several forms, according to their statement of purpose: "original research studies of major issues confronting workers' compensation systems; original studies of individual state systems where policy makers have shown an interest in reform and where there is an unmet need for that objective information; source book that brings together information from a variety of sources to provide unique, convenient reference works on specific issues; periodic research briefs on significant new research, data, and issues in the field." (WCRI Annual Report/Research Review, 1992).

**Associated Industries of Massachusetts (AIM)**

Workers' Compensation Oversight Committee

222 Berkeley Street, P.O. Box 763, Boston, MA 02117-0763

Phone: 617-262-1180 Hot Line: 800-470-6277 Web Page: <http://www.aimnet.org>

The Associated Industries of Massachusetts is a dues-supported, non-profit, nonpartisan employers' association dedicated to improving the Commonwealth's economic climate.

### **Massachusetts AFL-CIO**

389 Main Street, Malden, MA 02148

Phone: 781-324-8230 Web Page: <http://www.massaficio.org>

The AFL-CIO is the umbrella organization representing more than 750 local unions and intermediate bodies in Massachusetts. The AFL-CIO is dedicated to empowering the worker by improving the standard of living and the quality of life for all working people.

### **International Association of Industrial Accident Boards and Commissions (IAIABC)**

1201 Wakarusa, C-3, Lawrence, KS 66049

Phone: 785-840-9103 Web Page: <http://www.iaiaabc.org>

The International Association of Industrial Accident Boards and Commissions serves the needs of the workers compensation system through promoting efficient and farsighted regulation and administration of the law.

## **Fraud**

### **Insurance Fraud Bureau of Massachusetts (IFB)**

101 Arch Street, Boston, MA 02110

Phone: 617-439-0439 (1-800-32FRAUD) Web Page: <http://www.ifb.org>

The Insurance Fraud Bureau of Massachusetts is a multifaceted investigative agency dedicated to the systematic elimination of fraudulent insurance transactions. Authorized by an Act of the Massachusetts Legislature and signed into law in 1990, the Insurance Fraud Bureau undertakes cases for investigation and preparation for criminal prosecution. The Bureau is wholly funded by the insurance industry in Massachusetts.

## **Safety**

### **Office of the Attorney General - Business and Labor Protection Bureau**

Fair Labor and Business Practices Division, One Ashburton Place, Boston, MA 02108

Phone: 617-727-2200 / 617-727-3465 Web Page: <http://www.ago.state.ma.us>

The Business and Labor Protection Bureau investigates and prosecutes violations of child labor laws and work-related injuries to minors, grants workplace procedure waivers, inspects workplace safety on construction sites, industrial sites and in the manufacturing industry. They also prosecute egregious cases of violations of industrial workplace safety and may shut down a job site in cases of imminent danger to the safety of employees or the public.

### **DIA - Office of Safety**

Phone: 617-727-4900 x387

The function of the Office of Safety is to reduce work related injury and illnesses by “establishing and supervising programs for data collection on workplace injuries and for the education and training of employees and employers in the recognition, avoidance and prevention of unsafe or unhealthy working conditions in employment and advising employees and employers on these issues.” (M.G.L. c. 23E, 3(6)).

**Massachusetts Coalition of Occupational Safety and Health** (MassCOSH)

12 Southern Avenue, Dorchester, MA 02124

Phone: 617-825-7233(SAFE) Web Page: <http://www.masscosh.org>

The following safety councils provide publications, videos, training programs, speakers and other information for a fee.

- *Safety Council of Western Massachusetts* (Springfield) 413-737-7908
- *National Safety Council*, Central MA Chapter (West Boylston) 508-835-2333
- *Massachusetts Safety Council* (Braintree) (Serves Eastern MA) 617-356-1633
- *American Society of Safety Engineers* (ASSE) is a non profit association that provides monthly educational seminars and training. It can be reached through the local safety councils.

**Legal**

**Massachusetts Bar Association**

Workers' Compensation Committee

20 West Street, Boston, MA 02111-1204

Phone: 617-542-3602 Web Site: <http://www.massbar.org>

The Massachusetts Bar Association is the statewide voluntary professional association for all lawyers, in all types of practice, in all areas of law.

**Massachusetts Academy of Trial Attorneys**

15 Broad Street, Suite 415, Boston, MA 02109

Phone: 617-248-5858 Web Site: <http://www.massacademy.com>

Private, non-profit professional association represents the plaintiff's attorneys in Massachusetts.

**Federal Government / National Organizations**

While most programs for workers' compensation are administered at the state level, there are various safety, labor, and workers' compensation programs administered by the federal government.

**U.S. Department of Labor**

Employment Standards Administration

Office of Workers' Compensation Programs

Division of Planning, Policy and Standards

200 Constitution Avenue, N.W., Washington, D.C. 20210

Phone: 1-866-4-USA-DOL Web Site: <http://www.dol.gov>

The Division of Planning, Policy and Standards at the Office of Workers' Compensation Programs serves as a liaison to the states regarding state workers' compensation matters. They produce two major publications: State Workers' Compensation Administration Profiles and State Workers' Compensation Laws.

The Office of Workers' Compensation Programs also administers four other divisions: Division of Longshore and Harbor Workers' Compensation (202-693-0038); Division of Energy Employee's Compensation (866-888-3322\*) Division of Federal Employee's Compensation (866-999-3322\*); and the Division of Coal Mine Workers' Compensation (202-693-0046).

**\*Toll Free Numbers**

**Occupational Safety and Health Administration (OSHA)**

200 Constitution Avenue, N.W.

Washington, D.C. 20210

Phone: 617-565-7164 Web Site: <http://www.osha.org>

OSHA's mission is to assure safety and health of America's workers by setting and enforcing standards; providing training, outreach and education; establishing partnerships; and encouraging continual improvement in workplace safety and health.

**OSHA Massachusetts Regional Offices**

**North Boston Area Office**

Valley Office Park, 13 Branch Street, Methuen, MA 01844

Phone: (617) 565-8110

**South Boston Area Office**

639 Granite Street, 4<sup>th</sup> Floor, Braintree, MA 02184

Phone: (617) 565-6923

**Springfield Area Office**

1441 Main Street, Room 550, Springfield, MA 01103-1493

Phone: (413) 785-0123

**National Institute for Occupational Safety and Health (NIOSH)**

1095 Willowdale Road

Morgantown, WV 26505-2888

Phone: 304-285-5894 / 800-311-3435 Web Site: <http://www.cdc.gov/niosh>

Federal agency under the Department of Health and Human Service. Clearinghouse information on workplace safety, health, and illness.

**National Institute for Occupational Safety and Health (NIOSH)**

New England Field Office

P.O. Box 87040, South Dartmouth, MA 02748-0701

Phone: 508-997-6126 Web Site: <http://www.cdc.gov/niosh>

Federal agency under the Department of Health and Human Service. Clearinghouse information on workplace safety, health, and illness.

**Occupational Health Foundation (OHF)**

815 16th Street, N.W. Suite 312

Washington, D.C. 20006

Phone: 202-842-7840

The OHF is a labor-sponsored, non-profit organization delivering service to the American labor movement and individual members of the workforce. OHF's mission is to improve occupational safety and health conditions for workers. (OHF 1993 Annual Program Report)

**United States Chamber of Commerce**

1615 H Street, N.W.

Washington, D.C. 20062-2000

Phone: 202-659-6000 / 800-638-6582 Web Site: <http://www.uschamber.com>

Publishes an analysis of state workers' compensation statutes.

## APPENDIX L

### Office of Safety Proposals Recommended for Funding - FY 2005

1. Guardian Ambulance  
37 Marston Street  
Lawrence, MA 01841  
(978) 686-1199  
**Title:** Occupational Safety and Health Training Program  
**Category of Applicant:** Public Employer  
**Target Population:** Employees/Employers/Supervisors  
**Geographic Target:** Lawrence  
**Program Administrator:** Steve Combs  
**Total Funds Requested:** \$ 9,600.00      **Approved:** \$ 9,800.00      **Score:** 89.6
2. Medtronic, Inc.  
37A Cherry Hill Ave  
Danvers, MA 01923  
(978) 777-0042  
**Title:** Occupational Safety and Health Education and Training Program  
**Category of Applicant:** Private Employer  
**Target Population:** Employees/Employers/Supervisors  
**Geographic Target:** Statewide  
**Program Administrator:** Michael Covenor  
**Total Funds Requested:** \$18,639.50      **Approved:** \$16,866.00      **Score:** 86.3
3. Northeastern MA Carpenters  
350 Fordham Street, Suite 201  
Wilmington, MA 01887  
**Title:** 10 and 30 Hour OSHA Training  
**Category of Applicant:** Labor Organization  
**Target Population:** Employees/Supervisors/Safety Committee  
**Geographic Target:** Statewide  
**Program Administrator:** David Wallace  
**Total Funds Requested:** \$17,319.30      **Approved:** \$16,371.80      **Score:** 86.3
4. Olin Aegis  
50 Welby Road  
New Bedford, MA 02745  
(508) 998-4303  
**Title:** Preventing Musculoskeletal Disorders  
**Category of Applicant:** Private Employer  
**Target Population:** Employees/Supervisors  
**Geographic Target:** Fall River  
**Program Administrator:** Alan Apperson  
**Total Funds Requested:** \$18,407.44      **Approved:** \$17,300.00      **Score:** 85.7



5. Costco Wholesale  
11 Newbury Street  
Danvers, MA 01923  
(978) 750-1000  
**Title:** Ergonomic, First Aid and Blood Borne Pathogens Training  
**Category of Applicant:** Private Employer  
**Target Population:** Employees  
**Geographic Target:** Boston  
**Program Administrator:** Kevin Horst  
**Total Funds Requested:** \$17,850.50      **Approved:** \$15,682.50      **Score:** 84.0
6. Cumberland Farms  
777 Dedham Street  
Canton, MA 02021  
(781) 828-4900  
**Title:** Prevention of Work Related Musculo-Skeletal Injuries  
**Category of Applicant:** Private Employer  
**Target Population:** Employees/Employers/Supervisors  
**Geographic Target:** Boston  
**Program Administrator:** John Wojtas  
**Total Funds Requested:** \$29,709.50      **Approved:** \$27,274.50      **Score:** 83.6
7. Quadrant Health  
34 Salem Street  
Wilmington, MA 01887  
(978) 988-8832  
**Title:** Preventing Musculo-Skeletal Injuries  
**Category of Applicant:** Private  
**Target Population:** Employees  
**Geographic Target:** Fall River  
**Program Administrator:** Rena Hannaford  
**Total Funds Requested:** \$26,472.17      **Approved:** \$24,542.53      **Score:** 83.6
8. Abbott Labs  
4A Crosby Avenue  
Bedford, MA 01730  
(781) 276-6000  
**Title:** Ergonomic Awareness Training for Manufacturing and Office Workers  
**Category of Applicant:** Private Employer  
**Target Population:** Employees/Supervisors  
**Geographic Target:** Lawrence  
**Program Administrator:** Steven Weinstein  
**Total Funds Requested:** \$23,900.00      **Approved:** \$21,950.00      **Score:** 83.0
9. Department of Conservation and Recreation  
251 Causeway Street  
Boston, MA 02110  
(617) 626-1250  
**Title:** Comprehensive Safety Training Program  
**Category of Applicant:** Public Employer  
**Target Population:** Employees/Employers

- Geographic Target:** Statewide  
**Program Administrator:** Johanna Zabriskie  
**Total Funds Requested:** \$29,825.60      **Approved:** \$11,000.00      **Score:** 82.3
10. Local 98  
2 Center Square  
East Longmeadow, MA 01028  
(413) 525-4291  
**Title:** Homeland Security Safety and Health Training Program  
**Category of Applicant:** Labor Organization  
**Target Population:** Employees/Supervisors/Employer  
**Geographic Target:** Springfield  
**Program Administrator:** Michael Florio  
**Total Funds Requested:** \$26,101.05      **Approved:** \$14,654.78      **Score:** 82.2
11. Hasbro Games  
443 Shaker Road  
East Longmeadow, MA 01028  
(413) 526-2419  
**Title:** Ergonomic Training to Prevent Musculoskeletal Injuries  
**Category of Applicant:** Private Employer  
**Target Population:** Employees/Supervisors  
**Geographic Target:** Springfield  
**Program Administrator:** Jack Popp  
**Total Funds Requested:** \$29,871.70      **Approved:** \$27,886.70      **Score:** 81.3
12. Southeastern Mass Carpenters  
21 Mazzeo Drive Suite 201  
Randolph, MA 02687  
(781) 963-0200  
**Title:** Occupational Safety and Health Education and Training  
**Category of Applicant:** Labor Organization  
**Target Population:** Employees/Supervisors  
**Geographic Target:** Statewide  
**Program Administrator:** Richard Nihtila  
**Total Funds Requested:** \$24,479.00      **Approved:** \$23,345.00      **Score:** 79.3
13. Caritas Good Samaritan  
75 Stockwell Drive  
Avon, MA 2322  
(508) 427-3900  
**Title:** Participatory Ergonomics  
**Category of Applicant:** Non-profit  
**Target Population:** Employees  
**Geographic Target:** Boston  
**Program Administrator:** Kathleen Pacheo  
**Total Funds Requested:** \$16,524.60      **Approved:** \$11,360.00      **Score:** 77.3
14. Boston Carpenters  
385 Market Street  
Brighton, MA 02135

- (617) 782-4314  
**Title:** Health and Safety Training for Construction  
**Category of Applicant:** Labor Organization  
**Target Population:** Employees/Supervisors  
**Geographic Target:** Statewide  
**Program Administrator:** Benjamin Tilton  
**Total Funds Requested:** \$29,810.00      **Approved:** \$29,401.00      **Score:** 76.0
15.      Massachusetts Millrights  
         90 Braintree Street  
         Allston, MA 02134  
         (617) 254-0042  
**Title:** Millwrights Safety Training Program  
**Category of Applicant:** Joint Labor Management Committee  
**Target Population:** Employees  
**Geographic Target:** Statewide  
**Program Administrator:** Roy Engstrom  
**Total Funds Requested:** \$23,772.00      **Approved:** \$12,744.00      **Score:** 75.7
16.      Seven Hills  
         81 Hope Avenue  
         Worcester, MA 01603  
         (508) 755-2340  
**Title:** Ergonomic Training to Prevent Musculo-Skeletal Injuries  
**Category of Applicant:** Non-profit  
**Target Population:** Employees  
**Geographic Target:** Fall River/Worcester  
**Program Administrator:** Karen McDonald  
**Total Funds Requested:** \$ 5,978.09      **Approved:** \$ 5,326.50      **Score:** 75.6
17.      Weetabix Company  
         20 Cameron Street  
         Clinton, MA 01510  
         (978) 365-7268  
**Title:** Ergonomics Awareness Training  
**Category of Applicant:** Private Employer  
**Target Population:** Employees/Employers/Supervisors  
**Geographic Target:** Worcester  
**Program Administrator:** Collette McHugh  
**Total Funds Requested:** \$14,225.00      **Approved:** \$12,875.00      **Score:** 74.6
18.      Middlesex School  
         1400 Lowell Street  
         Concord, MA 01742  
**Title:** Occupational Safety and Health Training Program  
**Category of Applicant:** Public Employer  
**Target Population:** Employees/Supervisors/Employers  
**Geographic Target:** Boston/Concord  
**Program Administrator:** Kathleen DeFlorio  
**Total Funds Requested:** \$14,630.00      **Approved:** \$ 7,580.00      **Score:** 73.0

19. Mabbett and Associates  
5 Alfred Circle  
Bedford, MA 01730  
(781) 275-6050  
**Title:** Weapons of Mass Destruction  
**Category of Applicant:** Private Employer  
**Target Population:** Employees/Supervisors  
**Geographic Target:** Lawrence  
**Program Administrator:** Susan Smits  
**Total Funds Requested:** \$29,736.00      **Approved:** \$14,031.00      **Score:** 70.6
20. Cashins and Associates  
80 Main Street  
Reading, MA 01867  
(781) 944-4060  
**Title:** Hazwoper Training  
**Category of Applicant:** Private Employer  
**Target Population:** Employees  
**Geographic Target:** Boston  
**Program Administrator:** David Paine  
**Total Funds Requested:** \$27,396.61      **Approved:** \$17,880.00      **Score:** 70.5
21. Bridgewater State College  
200 Great Hill Avenue  
Bridgewater, MA 02325  
(508) 531-2751  
**Title:** General Industries Standards  
**Category of Applicant:** Public Employer  
**Target Population:** Employees/Employer  
**Geographic Target:** Fall River/Bridgewater  
**Program Administrator:** Patricia Delaney  
**Total Funds Requested:** \$21,890.00      **Approved:** \$11,456.00      **Score:** 69.6
22. Haemonetics  
400 Wood Drive  
Braintree, MA 01284  
(617) 848-7100  
**Title:** Prevention of Work Related MSD's  
**Category of Applicant:** Public  
**Target Population:** Employees/Supervisors  
**Geographic Target:** Boston  
**Program Administrator:** Mitch Campbell  
**Total Funds Requested:** \$18,110.00      **Approved:** \$11,750.00      **Score:** 69.6
23. Anna Jacques Hospital  
25 Highland Avenue  
Newburyport, MA 01950  
(978) 834-8187  
**Title:** Occupational Safety and Health Training Program  
**Category of Applicant:** Private Employer  
**Target Population:** Employees/Supervisors

- Geographic Target:** Lawrence  
**Program Administrator:** Patricia Powers  
**Total Funds Requested:** \$29,929.00      **Approved:** \$13,950.00      **Score:** 69.3
24.    **EFI**  
10 New England Business Center, Suite 105  
Andover, MA 01810  
(978) 688-3736  
**Title:** Hazwoper and OSHA Construction Training  
**Category of Applicant:** Private Employer  
**Target Population:** Supervisors/Employees  
**Geographic Target:** Statewide  
**Program Administrator:** Keith Pokorny  
**Total Funds Requested:** \$29,770.80      **Approved:** \$22,627.35      **Score:** 69.3
25.    **ATR**  
100 Main Street  
Amesbury, MA 01913  
(978) 388-6775  
**Title:** Musculoskeletal Injury Prevention at Four Companies  
**Category of Applicant:** Private Employer  
**Target Population:** Employees/Employers  
**Geographic Target:** Statewide  
**Program Administrator:** Trish Going  
**Total Funds Requested:** \$28,370.00      **Approved:** \$24,410.00      **Score:** 69.0
26.    **Mass Compliance**  
P.O. Box 609  
Falmouth, MA 02574  
(978) 847-9552  
**Title:** Occupational Health and Safety Training at Three Different Companies  
**Category of Applicant:** Private Employer  
**Target Population:** Employees  
**Geographic Target:** Statewide  
**Program Administrator:** Beth DiPietro  
**Total Funds Requested:** \$29,738.34      **Approved:** \$21,872.19      **Score:** 68.0
27.    **Greater Lynn Senior Services**  
8 Silsbee Street  
Lynn, MA 01901  
(781) 592-4070  
**Title:** Van Driver Safety and OSHA Training  
**Category of Applicant:** Private Employer  
**Target Population:** Employees/Supervisors  
**Geographic Target:** Boston  
**Program Administrator:** Cathy Darby  
**Total Funds Requested:** \$ 7,760.00      **Approved:** \$ 6,016.00      **Score:** 66.3
28.    **Labor Management Safety Alliance**  
256 Freeport Street  
Boston, MA 02122

- (617) 565-2381  
**Title:** OSHA 10 and 30 Hour Training Program  
**Category of Applicant:** Labor Organization  
**Target Population:** Employees  
**Geographic Target:** Statewide  
**Program Administrator:** Mary Vogel  
**Total Funds Requested:** \$29,899.00      **Approved:** \$ 6,367.72      **Score:** 66.3
29.    VH Blackington  
      21 John Dietcsh Blvd.  
      P.O. Box 1300  
      Attleboro Falls, MA 02763  
**Title:** Occupational Safety and Health Program  
**Category of Applicant:** Private Employer  
**Target Population:** Employees  
**Geographic Target:** Boston  
**Program Administrator:** Richard Isaaco  
**Total Funds Requested:** \$21,707.00      **Approved:** \$ 5,750.00      **Score:** 62.0
30.    Sagamore Plumbing  
      320 Libbey Industrial Parkway  
      Weymouth, MA 02189  
      (781) 331-1600  
**Title:** Occupational Safety and Health Training Program  
**Category of Applicant:** Private Employer  
**Target Population:** Employees/Supervisors  
**Geographic Target:** Statewide  
**Program Administrator:** Gerald Fusco  
**Total Funds Requested:** \$25,890.00      **Approved:** \$17,765.00      **Score:** 61.3
31.    City of Cambridge  
      147 Hampshire Street  
      Cambridge, MA 02139  
      (617) 349-4802  
**Title:** Injury Prevention for DPW Workers  
**Category of Applicant:** Public Employer  
**Target Population:** Employees/Supervisors  
**Geographic Target:** Boston  
**Program Administrator:** Lisa Peterson  
**Total Funds Requested:** \$16,190.00      **Approved:** \$ 3,695.00      **Score:** 60.5
32.    Rohm and Haas Electronics  
      455 Forest Street  
      Marlborough, MA 01752  
      (508) 481-7950  
**Title:** Laboratory Safety Training  
**Category of Applicant:** Private Employer  
**Target Population:** Employees/Supervisors  
**Geographic Target:** Boston  
**Program Administrator:** Michael Lombardi  
**Total Funds Requested:** \$27,000.00      **Approved:** \$21,575.00      **Score:** 60.3

33. Medical Training Associates  
50 Worcester Place  
Rockport, MA 01966  
(800) 822-0550  
**Title:** DIA Health and Safety Program  
**Category of Applicant:** Private Employer  
**Target Population:** Employees/Supervisors  
**Geographic Target:** Statewide  
**Program Administrator:** Craig Morrill  
**Total Funds Requested:** \$30,000.00      **Approved:** \$18,200.00      **Score:** 57.0
34. Fiore Construction Co.  
15 Cobbler Drive  
Fitchburg, MA 01420  
(978) 353-3192  
**Title:** Construction Safety Training Program  
**Category of Applicant:** Private Employer  
**Target Population:** Employees/Supervisors  
**Geographic Target:** Worcester  
**Program Administrator:** Peter Amorello  
**Total Funds Requested:** \$26,699.00      **Approved:** \$10,850.00      **Score:** 55.5
35. Environmental Health and Engineering  
60 Wells Avenue  
Newton, MA 02459  
(617) 964-8550  
**Title:** Preventing Injuries within the Healthcare Industry  
**Category of Applicant:** Private Employer  
**Target Population:** Employees/Supervisors  
**Geographic Target:** Statewide  
**Program Administrator:** Cynthia Straley  
**Total Funds Requested:** \$29,980.00      **Approved:** \$23,200.00      **Score:** 53.3
36. Medical Area Total Energy Plant  
474 Brookline Avenue  
Boston, MA 02215  
(617) 598-2711  
**Title:** Behavioral Safety and Musculoskeletal Injury Prevention  
**Category of Applicant:** Private Employer  
**Target Population:** Employees/Employers/Supervisors  
**Geographic Target:** Boston  
**Program Administrator:** Sean Caldwell  
**Total Funds Requested:** \$ 8,025.00      **Approved:** \$ 8,025.00      **Score:** 95.7
37. Painters Local #35  
25 Colgate Road Suite 221  
Roslindale, MA 02131  
(617) 524-0248  
**Title:** Fall Protection Program  
**Category of Applicant:** Joint Labor/Management

- Target Population:** Employees/Supervisors  
**Geographic Target:** Statewide  
**Program Administrator:** Eric Redding  
**Total Funds Requested:** \$ 9,968.78      **Approved:** \$ 9,968.00      **Score:** 92.0
38.      Varian Semiconductor Equipment  
35 Dory Road  
Gloucester, MA 01930  
(978) 282-7547  
**Title:** Ergonomic Training  
**Category of Applicant:** Private Employer  
**Target Population:** Employees/Supervisors/Safety Committee  
**Geographic Target:** Lawrence  
**Program Administrator:** Jon Levis  
**Total Funds Requested:** \$23,420.00      **Approved:** \$23,420.00      **Score:** 90.0
39.      Hebrew Rehab Center  
1200 Centre Street  
Boston, MA 02131  
(617) 363-8474  
**Title:** Preventing Musculoskeletal Disorders  
**Category of Applicant:** Private Employer  
**Target Population:** Employees/Supervisors  
**Geographic Target:** Boston  
**Program Administrator:** Rosa McKenzie  
**Total Funds Requested:** \$16,205.00      **Approved:** \$16,205.00      **Score:** 88.2
40.      Genzyme Corporation  
11 Pleasant Street Connector  
Framingham, MA 01701-9322  
(508) 271-2801  
**Title:** Ergonomic Training  
**Category of Applicant:** Private Employer  
**Target Population:** Employees/Supervisors  
**Geographic Target:** Boston  
**Program Administrator:** Mark Bunforth  
**Total Funds Requested:** \$24,800.00      **Approved:** \$24,800.00      **Score:** 88.0
41.      Polaroid Corporation  
1 Upland Road  
Building 100, Suite One  
Norwood, MA 02062  
(781) 386-8216  
**Title:** Prevention of Work Related Musculo-skeletal Injuries  
**Category of Applicant:** Private Employer  
**Target Population:** Employees/Employers/Supervisors  
**Geographic Target:** Boston  
**Program Administrator:** Mary Ellen Doherty  
**Total Funds Requested:** \$24,520.65      **Approved:** \$24,520.65      **Score:** 88.0



42. Lifelinks, Inc.  
145 Lexington Avenue  
Lowell, MA 01854  
(978) 459-6179  
**Title:** Employee Safety Training  
**Category of Applicant:** Non-Profit  
**Target Population:** Employees/Supervisors  
**Geographic Target:** Lawrence  
**Program Administrator:** Yvonne La-Garde  
**Total Funds Requested:** \$17,250.00      **Approved:** \$17,250.00      **Score:** 86.0
43. FGM Solutions  
166 Middle Road  
Portsmouth, RI 02871  
(401) 439-7244  
**Title:** Boston Housing Authority Safety Training  
**Category of Applicant:** Private Employer  
**Target Population:** Employees/Employers  
**Geographic Target:** Boston  
**Program Administrator:** David Nealy  
**Total Funds Requested:** \$24,812.50      **Approved:** \$23,031.75      **Score:** 75.2
44. The Trustees of Reservations  
572 Essex Street  
Beverly, MA 01915  
(978) 921-1944  
**Title:** Field Operations Safety Training  
**Category of Applicant:** Non-Profit Organization  
**Target Population:** Employees/Supervisors/Employer  
**Geographic Target:** Statewide  
**Program Administrator:** Kerry Smith  
**Total Funds Requested:** \$24,812.50      **Approved:** \$16,079.15      **Score:** 74.7
45. City of Westfield  
59 Court Street City Hall  
Westfield, MA 01085  
(413) 572-6200  
**Title:** Occupational Safety and Health Training Program  
**Category of Applicant:** Public Employer  
**Target Population:** Employees/Supervisors  
**Geographic Target:** Springfield  
**Program Administrator:** Helen Bowler  
**Total Funds Requested:** \$20,225.00      **Approved:** \$20,225.00      **Score:** 74.3
46. Carpenters Training Fund  
13 Holman Road  
Millbury, MA  
(508) 792-5443  
**Title:** Safety and Health in Construction  
**Category of Applicant:** Labor Organization

- Target Population:** Employees/Supervisors  
**Geographic Target:** Statewide  
**Program Administrator:** Richard Nihtila  
**Total Funds Requested:** \$15,044.80      **Approved:** \$12,474.70      **Score:** 73.0
47.    RH White Construction  
41 Central Street  
Auburn, MA 01501  
(508) 832-3295  
**Title:** Safety and Health Training Program  
**Category of Applicant:** Private Employer  
**Target Population:** Employees  
**Geographic Target:** Statewide  
**Program Administrator:** Olga Flory  
**Total Funds Requested:** \$24,988.00      **Approved:** \$12,788.00      **Score:** 70.6
48.    Construction Industries Corporation  
98 Elm Street  
Salisbury, MA 01952  
(978) 462-6543  
**Title:** Health and Safety Training for Construction  
**Category of Applicant:** Labor Organization  
**Target Population:** Employees/Supervisors  
**Geographic Target:** Statewide  
**Program Administrator:** Mark McLellan  
**Total Funds Requested:** \$23,625.00      **Approved:** \$13,575.63      **Score:** 68.5
49.    Mount Wachusett Community College  
444 Green Street  
Gardner, MA 01440  
(978) 632-6600  
**Title:** First Aid/CPR Training  
**Category of Applicant:** Non-Profit  
**Target Population:** Employees/Supervisors/Safety Team  
**Geographic Target:** Worcester  
**Program Administrator:** Kelly Mendoza  
**Total Funds Requested:** \$14,904.00      **Approved:** \$ 5,503.00      **Score:** 66.3
50.    George Macomber Company  
One Design Center Place, Suite 600  
Boston, MA 02210  
(617) 478-6200  
**Title:** Protecting Employees From Workplace Hazards  
**Category of Applicant:** Private Employer  
**Target Population:** Employees/Employer  
**Geographic Target:** Lawrence  
**Program Administrator:** Neil Webster  
**Total Funds Requested:** \$24,963.00      **Approved:** \$11,100.00      **Score:** 64.7

## APPENDIX M

### Budget Subsidiaries

#### **Subsidiary AA: Regular Employee Compensation**

Includes regular compensation for employees in authorized positions including regular salary, overtime, and other financial benefits. All expenditures for this subsidiary must be made through the payroll system.

#### **Subsidiary BB: Regular Employee Related Expenses**

This subsidiary includes reimbursements to employees and payments on behalf of employees with the exception of pension and insurance related payments. This includes out of state travel (airfare, lodging, other); in state travel; overtime meals; tuition; conference, training, and registration; membership dues, etc.

#### **Subsidiary CC: Special Employees / Contracted Services**

Payments to individuals employed on a temporary basis through contracts as opposed to authorized positions paid through subsidiary AA. Includes contracted faculty; contracted advisory board/commission members; seasonal; student interns, etc. (These employees are generally not eligible for benefits.)

#### **Subsidiary DD: Pension and Insurance-Related Expenditures**

Pension and insurance related expenditure for former and current employees and beneficiaries. Includes retirement, health and life insurance, workers' compensation benefits; medical expenses; universal health insurance charge-back; universal health insurance payments, etc.

#### **Subsidiary EE: Administrative Expenses**

Expenses associated with divisional operations. Includes office and administrative supplies; printing expenses and supplies; micrographic supplies; central reprographic charge-back; postage, telephone, software, data processing; subscriptions and memberships; advertising; exhibits/displays; bottled water.

#### **Subsidiary GG: Energy Costs and Space and Rental Expenses**

Plant operations, space rentals, utilities, and vehicle fuel. Includes fuel for buildings; heating and air conditioning; sewage and water bills, etc.

#### **Subsidiary HH: Consultant Services**

Outside professional services for specific projects for defined time periods, incurred when services are not provided by, or available from state employees. Consultants advise and assist departments but do not provide direct services to clients. Includes accountants; actuaries/statisticians; information technology professionals; advertising agency; arbitrators; architects; attorneys; economists; engineers; health/safety experts; honoraria for visiting speakers; researchers; labor negotiators; management consultants; medical consultants, etc.

#### **Subsidiary JJ: Operational Services**

Expenditures for the routine functioning of the Division. Services are provided by non-employees (individuals or firms) generally by contractual arrangements, except when authorized by statute or regulation. Includes movers; snow removal services; messenger services; law enforcement (detail officer).

#### **Subsidiary KK: Equipment Purchase**

Purchase and installation of equipment. (See LL for equipment lease, repair.) Includes information technology equipment (computers, software); educational equipment (overhead projectors, tape recorders); photocopying equipment, office equipment, etc.

#### **Subsidiary LL: Equipment Lease-Purchase, Lease and Rental, Maintenance and Repair**

Includes expenditures for the lease-purchase, lease, rental, maintenance and repair of equipment. Includes information technology equipment (computers, software); educational equipment (overhead projectors, tape recorders); photocopying equipment, office equipment, etc.

## APPENDIX N

### COLLECTIONS AND EXPENDITURES REPORT - FISCAL YEAR 2004

<b>SPECIAL FUND</b>	<b>FY'04</b>	<b>FY'03</b>	<b>FY'02</b>	<b>FY'01</b>	<b>FY'00</b>
<b><u>COLLECTIONS</u></b>					
INTEREST	194,200	209,426	342,449	932,637	959,382
ASSESSMENT	12,805,486	23,213,608	16,031,304	14,427,829	16,363,865
LESS RET. CHECKS	0	0	(2,789)	(9,320)	0
LESS REFUNDS	0	(20,171)	(258,971)	(332,081)	(6,666)
<b>SUB-TOTAL</b>	<b>12,805,486</b>	<b>23,193,437</b>	<b>15,769,544</b>	<b>14,086,428</b>	<b>16,357,199</b>
FILING FEES	4,166,153	5,264,175	4,254,978	4,431,724	4,102,258
COLLECTION FEE	(32,357)	(21,944)	(23,705)	(18,778)	(16,073)
LESS RET. CHECKS	(3,140)	(6,610)	(2,739)	(1,027)	(2,044)
LESS REFUNDS	(4,837)	(7,480)	(7,325)	(7,368)	(9,319)
<b>SUB-TOTAL</b>	<b>4,125,819</b>	<b>5,228,141</b>	<b>4,221,209</b>	<b>4,404,551</b>	<b>4,074,822</b>
1ST REPORT FINES	241,890	179,750	333,515	378,050	378,310
LESS COLLECTION FEE	(4,642)	(5,798)	(12,460)	(13,100)	(14,550)
LESS RET. CHECKS	0	0	(1,640)	(500)	(500)
LESS REFUNDS	(100)	(200)	(700)	(200)	(1,100)
<b>SUB-TOTAL</b>	<b>237,148</b>	<b>173,752</b>	<b>318,715</b>	<b>364,250</b>	<b>362,160</b>
STOP WORK ORDERS	394,207	637,426	393,340	465,961	392,343
LESS REFUNDS	(600)	(1,750)	(423)	0	(1,100)
LESS BAD CHECKS	(10,638)	(29,962)	(5,250)	(12,208)	(18,130)
COLLECTION FEE	(39,441)	(72,156)	(25,842)	(50,639)	(52,816)
<b>SUB-TOTAL</b>	<b>343,528</b>	<b>533,558</b>	<b>361,825</b>	<b>403,114</b>	<b>320,297</b>
LATE ASSESS. FINES	20,428	19,574	28,124	36,661	24,611
SEC. 7 & 14 FINES	6,500	5,700	0		7,912
MISCELLANEOUS	21,685	43,800	56,120	43,472	42,526
<b>SUB-TOTAL</b>	<b>48,613</b>	<b>69,074</b>	<b>84,244</b>	<b>80,133</b>	<b>75,049</b>
<b>TOTAL COLLECTIONS</b>	<b>17,754,794</b>	<b>29,407,388</b>	<b>21,097,986</b>	<b>20,271,113</b>	<b>22,148,909</b>
BALANCE BRGT FWD	14,728,736	7,638,265	10,065,860	12,725,215	11,785,359
<b>TOTAL</b>	<b>32,483,530</b>	<b>37,045,653</b>	<b>31,163,846</b>	<b>32,996,328</b>	<b>33,934,268</b>
LESS EXPENDITURES	(22,392,762)	(22,316,917)	(23,525,582)	(22,930,468)	(21,209,053)
<b>BALANCE</b>	<b>10,090,768</b>	<b>14,728,736</b>	<b>7,638,264</b>	<b>10,065,860</b>	<b>12,725,215</b>
<b><u>EXPENDITURES</u></b>					
ORACLE START-UP	1,227,305	936,853	2,731,097		
ORACLE SOFTWARE				408,754	
UNISYS CORP.				23,264	
ORACLE CONSULTANTS				825,000	
SUN MICROSYSTEMS				4,264	
<b>TOTAL</b>	<b>1,227,305</b>	<b>936,853</b>	<b>2,731,097</b>	<b>1,261,282</b>	
<b><u>REPAYMENT</u></b>					
SALARIES	13,148,258	13,788,158	13,644,820	13,158,744	13,003,221
FRINGE BENEFITS	2,989,091	2,969,507	2,965,931	3,798,264	3,104,485
INDIRECT COSTS	223,937	405,376	285,004	332,090	466,539
NON-PERSONNEL COSTS	4,772,185	4,171,404	3,872,690	4,348,884	4,584,213
IP INDIRECT-EX	31,986	45,619	29,528	31,204	50,595
ADJUSTMENT			(3,488)		
<b>TOTAL REPAYMENT</b>	<b>21,165,457</b>	<b>21,380,064</b>	<b>20,794,485</b>	<b>21,669,186</b>	<b>21,209,053</b>

**COLLECTIONS AND EXPENDITURES REPORT - FISCAL YEAR 2004**

<b>PUBLIC TRUST</b>	<b>FY '04</b>	<b>FY'03</b>	<b>FY'02</b>	<b>FY'01</b>	<b>FY'00</b>
<b><u>COLLECTIONS</u></b>					
INTEREST	1,691	2,924	5,376	21,904	3,135
ASSESSMENTS	1,078,719	2,094,687	3,376,503	3,103,066	1,981,649
REFUNDS	0	0	(39,494)		
BD CHECKS			0	0	0
<b>TOTAL ASSESSMENTS</b>	<b>1,078,719</b>	<b>2,094,687</b>	<b>3,337,009</b>	<b>3,103,066</b>	<b>1,981,649</b>
<b>TOTAL COLLECTIONS</b>	<b>1,080,410</b>	<b>2,097,611</b>	<b>3,342,385</b>	<b>3,124,970</b>	<b>1,984,784</b>
BALANCE BRGT FWD	13,010	37,945	56,716	25,572	15,984
<b>TOTAL</b>	<b>1,093,420</b>	<b>2,135,556</b>	<b>3,399,101</b>	<b>3,150,542</b>	<b>2,000,768</b>
LESS EXPENDITURES	(590,308)	(2,122,546)	(3,361,156)	(3,093,826)	(1,975,196)
<b>BALANCE</b>	<b>503,112</b>	<b>13,010</b>	<b>37,945</b>	<b>56,716</b>	<b>25,572</b>
<b><u>EXPENDITURES</u></b>					
RR COLAS	584,916	2,106,371	3,249,773	3,023,919	1,758,754
RR SEC. 37	5,392	16,175	111,383	69,907	182,203
RR SEC. 19 COLA	0	0	0	0	34,239
RR REHAB				0	0
SHELBY CLAIMS					
MM IME SEC 37				0	0
<b>TOTAL EXPENDITURES</b>	<b>590,308</b>	<b>2,122,546</b>	<b>3,361,156</b>	<b>3,093,826</b>	<b>1,975,196</b>

<b>PRIVATE TRUST</b>	<b>FY'04</b>	<b>FY'03</b>	<b>FY'02</b>	<b>FY'01</b>	<b>FY'00</b>
<b><u>COLLECTIONS</u></b>					
INTEREST	107,041	266,311	511,003	1,246,983	1,077,109
ASSESSMENTS	41,932,779	41,155,377	41,651,141	39,778,971	40,602,911
LESS RET. CHECKS	0	0	(6,533)	(60,437)	0
LESS REFUNDS	0	(45,402)	(820,175)	(994,294)	(209)
<b>SUB-TOTAL</b>	<b>41,932,779</b>	<b>41,109,975</b>	<b>40,824,433</b>	<b>38,724,240</b>	<b>40,602,702</b>
REIMBURSEMENTS	639,484	698,536	922,936	547,085	1,015,647
LESS COLLECTION FEE		(220)	(783)	(1,005)	(1,554)
RET. CHECK	(11,650)	(1,000)	(5,290)	(6,193)	(5,978)
REFUNDS	0	(15,000)	(519)	(588)	(325)
<b>SUB-TOTAL</b>	<b>627,834</b>	<b>682,316</b>	<b>916,344</b>	<b>539,299</b>	<b>1,007,790</b>
<b>SEC. 31-J. FERNANDEZ</b>				<b>8,068</b>	
<b>SEC. 30 H</b>	<b>39,322</b>	<b>3,630</b>	<b>3,471</b>	<b>0</b>	<b>8,846</b>
<b>TOTAL COLLECTIONS</b>	<b>42,706,976</b>	<b>42,062,232</b>	<b>42,255,251</b>	<b>40,518,590</b>	<b>42,696,447</b>
BALANCE BRGT FWD	16,304,121	22,394,085	23,172,956	18,724,712	18,952,485
<b>TOTAL</b>	<b>59,011,097</b>	<b>64,456,317</b>	<b>65,428,207</b>	<b>59,243,302</b>	<b>61,648,932</b>
LESS EXPENDITURES	(47,324,567)	(48,152,196)	(43,034,125)	(36,070,345)	(42,924,220)
<b>BALANCE</b>	<b>11,686,530</b>	<b>16,304,121</b>	<b>22,394,082</b>	<b>23,172,957</b>	<b>18,724,712</b>

**COLLECTION AND EXPENDITURE REPORT - FISCAL YEAR 2004**

<b>EXPENDITURES</b>	<b>FY'04</b>	<b>FY'03</b>	<b>FY'02</b>	<b>FY'01</b>	<b>FY'00</b>
RR SEC. 34	880,289	696,301	496,677	732,945	616,463
RR SEC. 35	235,072	243,633	291,047	297,577	391,977
RR LUMP SUM	877,951	749,968	1,462,143	699,231	585,288
RR SEC. 36	363,636	184,359	184,054	39,953	110,339
RR SEC. 31	106,257	69,226	71,502	281,105	79,231
RR SEC. 34, PERM. TOTAL	287,762	311,716	305,627	265,364	261,656
RR SEC.31-J. FERNANDEZ				8,068	
RR COLA ADJ	149,555	175,618	167,841	137,101	158,367
RR EE MEDICAL	63,848	38,453	48,593	44,634	59,453
RR EE TRAVEL	673	84	0	0	87
RR EE MISC. EXPENSE	0	550	0	0	0
RR EE BOOKS & SUPPLIES	0	0	0	0	0
RR BURIAL BENEFITS	0	1,969	4,000	0	0
RR VETERAN LIENS	0	0	0	0	0
RR LEGAL FEES	310,903	296,840	408,008	256,360	276,535
RR LEGAL EXPENSES			23,815	22,777	23,372
RR LEGAL MISC. / OTHER			6,384	2,141	2,222
RR MEDICAL EXPENSES			23,000	109	2,724
RR VOC. REHAB SERVICES	2,149	6,927	4,442	4,837	14,955
RR REHAB. SERV. TRAVEL	26	0	64	98	356
RR LABOR MARKET STUDY	0	7,000	7,000	11,093	12,569
RR REHAB (PRIOR YEAR)	0	406	6	2,925	1,323
RR MEDICAL	1,097,087	994,132	1,199,572	406,235	592,679
RR MEDICAL RECORDS			567	1,853	1,262
RR WELFARE LIENS	0	0	93,728	88,403	26,357
<b>SUB-TOTAL RR</b>	<b>4,375,208</b>	<b>3,777,182</b>	<b>4,798,070</b>	<b>3,302,809</b>	<b>3,217,215</b>
<b>MM TUITION</b>	<b>0</b>	<b>2,085</b>	<b>1,140</b>	<b>0</b>	<b>0</b>
<b>SUB-TOTAL CLAIMANTS</b>	<b>4,375,208</b>	<b>3,779,267</b>	<b>4,799,210</b>	<b>3,302,809</b>	<b>3,217,215</b>
<b><u>INSURERS</u></b>					
RR COLAS	18,110,397	17,809,263	15,835,070	15,325,146	11,837,661
RR SEC. 19 COLA LUMP SUM	1,111,415	1,021,639	1,203,306	1,026,126	648,587
RR SHELBY CLAIMS	0	0	0	86,033	85,000
RR LATENCY SEC. 35	899,231	1,377,046	1,173,347	950,567	798,983
RR LEGAL FEE SEC. 35	141,588	266,943	186,357	172,111	142,010
RR LEGAL EXP. SEC. 35			1,800	860	3,933
RR SEC. 37	19,733,766	19,863,605	16,719,602	12,782,757	23,959,801
<b>SUB-TOTAL INSURERS</b>	<b>39,996,397</b>	<b>40,338,496</b>	<b>35,119,482</b>	<b>30,343,600</b>	<b>37,475,975</b>
<b>TOTAL LEGAL</b>	<b>44,371,605</b>	<b>44,117,763</b>	<b>39,918,692</b>	<b>33,646,409</b>	<b>40,693,190</b>
<b><u>OEVR</u></b>					
JJ IME CORP.	0	0	0	0	0
MM TUITION	24,071	16,848	15,448	7,728	7,070
RR REHAB-30H	12,670	4,879	12,989	5,528	1,143
RR TRAVEL REHAB	290	151	0	112	65
RR EE TRAVEL	1,708	1,226	2,620	810	0
RR EE BOOKS & SUPPLIES	1,331	1,788	1,742	354	0
<b>SUB-TOTAL OEVR</b>	<b>40,070</b>	<b>24,892</b>	<b>32,799</b>	<b>14,532</b>	<b>8,278</b>
<b>TOTAL PRIVATE TRUST</b>	<b>47,324,567</b>	<b>48,152,196</b>	<b>43,034,125</b>	<b>36,070,345</b>	<b>42,924,220</b>

**COLLECTION AND EXPENDITURE REPORT - FISCAL YEAR 2004**

<b>EXPENDITURES DEFENSE OF THE FUND</b>	<b>FY'04</b>	<b>FY'03</b>	<b>FY'02</b>	<b>FY'01</b>	<b>FY'00</b>
AA PERSONNEL	1,418,182	1,569,972	1,405,120	1,147,577	1,058,255
AA OVERTIME	3,899	2,386	0	0	0
<b>SUB-TOTAL</b>	<b>1,422,081</b>	<b>1,572,358</b>	<b>1,405,120</b>	<b>1,147,577</b>	<b>1,058,255</b>
DD FRINGE	325,898	338,370	303,759	328,866	253,881
DD UNIVERSAL HEALTH	243	304	8,079	0	555
DD MEDICARE	8,881	10,956	293	0	15,829
DD UNEMPLOYMENT	2,774	2,060	1,260	2,295	2,116
DD BOND	0	0	310	62	
DD WORKERS' COMP CHR.G.	0	335	19,234	1,321	6,529
<b>SUB-TOTAL</b>	<b>337,796</b>	<b>352,025</b>	<b>332,935</b>	<b>332,544</b>	<b>278,910</b>
BB TRAVEL	5,796	7,384	7,252	9,322	10,261
BB TRAINING/TUITION	2,455	2,200	3,009	6,186	0
BB EMPLOYEE REIMBURS	532	55	0	156	91
BB PRIDE & PERFORMANCE	0	201	0	390	
BB MANAGER TRAINING			1,000		
<b>SUB-TOTAL</b>	<b>8,783</b>	<b>9,840</b>	<b>11,261</b>	<b>16,054</b>	<b>10,352</b>
<b>CC LAW CLERKS</b>			<b>0</b>	<b>12,128</b>	<b>4,440</b>
EE RENTAL/MV CHR.G-BACK	1,431	2,173	1,703	0	231
EE DEST. OLD RECORDS	5,541	5,293			
EE ADVERTISING	0	54	0	0	0
EE BOOKS/SUPPLIES	66,147	32,881	36,887	28,971	5,069
EE IMPARTIAL APPEALS	5,625	11,650	5,600	5,950	12,650
EE CENTRAL REPRO.	0	0	222	0	0
EE OMIS CHARGEBACK	0		6,648	0	2,219
EE SEC. 37 INTEREST	0	0	0	46,344	
EE VERIZON WIRELESS	8,066	4,904			
EE BELL ATLANTIC	0	2,700			
EE NEW ENG. TEL.	0	2,830			
EE MOBILE PHONES			3,712	1,448	998
EE AT&T				5,695	0
EE TELEPHONE & FAX	2,754	2,224	4,577	0	7,269
EE POSTAGE	3,235	23,375	3,039	13,000	10,000
EE MCI TELEPHONE				1,242	1,594
EE QUEST COMM.	0	0	810		
EE STATE BOOK STORE	0	264			
EE REFRESHMENTS	673	0	594		
EE ITT COMPUTER SERV.	9,552	10,341	0	0	2,225
EE WATER	930	864	1,367		
EE MCAD SEMINAR	1,400				
EE INDIRECT COSTS	31,435	89,017	42,493	39,296	51,937
<b>SUB-TOTAL</b>	<b>136,789</b>	<b>188,570</b>	<b>107,652</b>	<b>141,946</b>	<b>94,192</b>
HH CONSULTANTS	425,783	1,449,826	798,586	400,493	475,574
<b>SUB-TOTAL</b>	<b>425,783</b>	<b>1,449,826</b>	<b>798,586</b>	<b>400,493</b>	<b>475,574</b>
JJ OPERATIONAL SERV.	174,137	76,237	87,584	106,575	106,069
<b>SUB-TOTAL</b>	<b>174,137</b>	<b>76,237</b>	<b>87,584</b>	<b>106,575</b>	<b>106,069</b>

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**COLLECTIONS AND EXPENDITURES REPORT - FISCAL YEAR 2004**

<b>EXPENDITURES DEFENSE OF THE FUND</b>	<b>FY'04</b>	<b>FY'03</b>	<b>FY'02</b>	<b>FY'01</b>	<b>FY'00</b>
GG BOSTON LEASE	348,342	322,676	293,687	146,846	146,846
GG ELECTRICITY	5,484	2,859	5,432	3,300	1,675
<b>SUB-TOTAL</b>	<b>353,826</b>	<b>325,535</b>	<b>299,119</b>	<b>150,146</b>	<b>148,521</b>
KK EQUIPMENT	23,813	294	3,036	63,010	7,681
<b>SUB-TOTAL</b>	<b>23,813</b>	<b>294</b>	<b>3,036</b>	<b>63,010</b>	<b>7,681</b>
LL PRAXIS			0	0	8,116
LL PAGE NETWORK			0	52	13
LL XEROX	3,799	3,024	4,524	4,448	0
LL ORACLE	13,336	8,891	0	0	5,063
LL SIMPLEX	245	0	0	0	0
LL FAIRCHILD	3,256	2,153	2,870	2,929	1,311
LL PITNEY BOWES	625	101	912	681	
LL IKON	465	493	778	976	
LL SUN	2,100	0	6,853	7,829	
LL RETROFIT	6,058	3,514	4,037	5,652	
LL COMMAIR	0	348			
LL CAM OFFICE SERV	0	74			
LL PYRAMID		16,164	16,164	16,164	16,564
LL CONGRESS ALARM		94	140		
LL RICOH	0	0	63		
<b>SUB-TOTAL</b>	<b>29,884</b>	<b>34,856</b>	<b>36,341</b>	<b>38,731</b>	<b>31,067</b>
RR PENALTIES SEC. 8	0	0	1,000	200	0
<b>SUB-TOTAL</b>	<b>0</b>	<b>0</b>	<b>1,000</b>		
TT					7,859
<b>SUB-TOTAL</b>					<b>7,859</b>
<b>TOTAL DEFENSE OF FUND</b>	<b>2,912,892</b>	<b>4,009,541</b>	<b>3,082,634</b>	<b>2,409,404</b>	<b>2,222,752</b>
<b>TOTAL EXPENDITURES</b>	<b>50,237,459</b>	<b>52,161,737</b>	<b>46,116,759</b>	<b>38,479,749</b>	<b>45,146,972</b>

## APPENDIX O

### Workers' Compensation Legislation

*Before the Joint Committee on Commerce & Labor  
2003-2004 Legislative Session*

#### HOUSE BILLS:

**HOUSE BILL 297****Filed By:** Rep. Thomas P. Kennedy**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** WC Rates (c.118G, §7), Provider Complaints to HCSB (c.152 §13), Medical Report Fees (§30A) DIA Review - Insurer Claims Procedures (§13) Disciplinary Measures (§13)

Section 1 of this refiled bill (formerly H.2282 and S.101) would amend c.118G mandating that rates for physician and hospital services paid for under Chapter 152, set by the Division of Health Care Finance & Policy, be comparable to rates paid by commercial carriers. In addition, rates would be established that fully cover administrative costs associated with services to patients covered under c.152 when these costs exceed those covered under commercial health insurance policies.

Section 2 of this bill would amend c.152, §13 by requiring that the Health Care Services Board hear complaints by physicians regarding insurers and report the findings to the Division of Insurance.

Section 3 and 4 of this bill would amend c.152, §30A by requiring an insurer to pay the fee for medical reports within 14 days upon receipt. The insurer would also be subject to the same civil fines for failing to pay for reports as physicians are subject to for failing to make reports.

Section 5 of this bill would amend c.152, §13 by requiring the Division of Industrial Accidents to review the claims procedures of workers' compensation insurers including "duplicative and excessive documentation of service requests, standards for utilization review, use of non-physician reviewers, and the prompt payment of claims." The DIA would also be required to review the disposition of all complaints against insurers brought before the Health Care Services Board.

Section 6 of this bill would amend c.152, §13 by allowing the Commissioner of the Division of Industrial Accidents to discipline an insurer if it is determined that the insurer has violated any part of Chapter 152 or rule adopted under this chapter.

**HOUSE BILL 305****Filed By:** Rep. Patricia A. Walrath**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Exemption of Non-Profit Entities (c.152, §1)

This refiled bill (formerly H.3674) would amend the word "employer" as not including: "nonprofit entities, as defined by the Internal Revenue Code, that are staffed by volunteers, board members, directors, and paid employees." This would make the requirement of obtaining workers' compensation insurance elective for said employers. Current law only exempts non-profit entities that are exclusively staffed by volunteers.

**HOUSE BILL 498****Filed By:** Rep. Martin J. Walsh, AFL-CIO**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Comprehensive Bill (c.152, §1(7A), §13, §14, §30, §34, §35, §36, §46A)

Section 1 of this refiled bill (formerly H.777) would amend Section 1(7A) by allowing administrative judges to consider the employee's pre-injury employment when determining predominant cause of disability.

Section 2 would amend Section 13 setting the medical payment rate at no less than 80% of the usual and customary fee for any such health care service.

Section 3 would clarify Section 14(1) providing penalties against an insurer who refuses to pay medical benefits without reasonable grounds.

Section 4 would amend Section 30 allowing an emergency conference before an administrative judge to determine if an injured worker is entitled to medical treatment.

Sections 5 and 6 would amend Section 30 by limiting utilization review to five of "the most common industrial injury or illnesses." This change would limit the utilization review process to the most frequent care given to injured workers. Failure of the insurance company to comply with utilization review time guidelines would result in said treatments to "be deemed approved."

Section 7 would increase wage benefits for injured workers under §34 by restoring the amount to 2/3 of an employee's average weekly wage.

Section 8 would amend Section 35 by adding additional circumstances under which an administrative judge may extend the number of weeks under §35 (partial disability) benefits. These additional conditions are that the injured worker has returned to employment pursuant to an Individual Written Rehabilitation Plan under Section 30(H), has been found unsuitable for vocational rehabilitation by the OEVR, has returned to work at less than their pre-injury Average Weekly Wage, or has a permanent partial incapacity.

Section 9 would eliminate the requirement that scar-based disfigurement appear on the face, neck or hands to be compensable. This would require compensation for all disfigurement, whether or not scar-based, regardless of its location on the body. Section 36(k) was amended by Chapter 398 to limit payments for purely scar-based disfigurement by requiring benefits only when the disfigurement is on the face, neck, or hands.

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Section 10 would amend Section 46A by requiring an injured workers general health insurance carrier (if they have one) to cover all medical expenses of the injured worker until the workers' compensation insurer is ordered to pay a disputed claim. Currently, there is no language requiring a health insurance provider to cover these costs.

**HOUSE BILL 670**

**Filed By:** Rep. Eugene L. O'Flaherty

**Type of Bill:** Refile

**Endorsed by Advisory Council:** No

**Laws Affected:** Attorney's Fees (c.152, §13A(10)), Agreements to Pay Benefits (§19), Temporary Total Disability (§34), Permanent and Total Incapacity (§34A)

Section 1 of this refiled bill (formerly S.66) would allow attorneys to collect fees for advancing an employee's rights under §75A (preferential hiring of injured workers) and §75B (protection against handicap discrimination), in addition to any attorney's fees owed under §13A.

Section 2 of this bill adds two new subsections to §19. It would allow any administrative judge, administrative law judge or conciliator to approve any agreement to pay benefits authorized by §19. It would also allow an agreement to include a pay without prejudice clause.

Section 3 of this bill would amend §34 and require the insurer to pay the injured employee 60% of his average weekly wage (AWW) before the injury, but not more or less than the maximum or minimum weekly compensation rate, if the injury is considered total. If the AWW were found to be less than the minimum weekly compensation rate, it would then be increased to equal the AWW.

Section 4 of this bill would amend §34A and require the insurer to pay the injured employee two-thirds of his AWW before the injury, but not more or less than the maximum or minimum weekly compensation rate if the injury is considered permanent and total. If the AWW were found to be less than the minimum weekly compensation rate, it would then be increased to equal the AWW.

**HOUSE BILL 671**

**Filed By:** Rep. Eugene L. O'Flaherty

**Type of Bill:** Refile

**Endorsed by Advisory Council:** No

**Laws Affected:** Definition of Average Weekly Wage (c.152, §1(1)), Return to Work - Attorney Fees (§13A(4)), Eliminate Consideration of Offers at Conciliation (§13A(4))

Section 1 of this refiled bill (formerly S.77) addresses injured employees who return to work (without a lump sum settlement) and receive wages that are less than the pre-injury wages. This bill would apply the prior average weekly wage to any subsequent period of incapacity, whether or not such incapacity was the result of a new injury, or subsequent injury as set forth in §35B.

Section 2 of this bill would eliminate consideration of the last best offer in awarding attorney's fees when the insurer files for discontinuance of benefits or refuses initial payment. Currently, the claimants attorney is only entitled to payment if the administrative judge accepts the offer of the claimant or the amount submitted by the conciliator.

**HOUSE BILL 672****Filed By:** Rep. Eugene L. O'Flaherty**Type of Bill:** Refile (Partial)**Endorsed by Advisory Council:** No**Laws Affected:** Rate of Reimbursement - Health Care Services (c.152, §13), PPA's (§30)

Section 1 of this refiled bill (formerly S.79) deletes the current language in §13 and replaces it with simpler language. This legislation states that the Rate Setting Commission (now called Division of Health Care Finance & Policy) must establish the maximum reimbursement rates for hospitalization and all other health care services, and that no insurer may be held liable for any charge greater than those established rates. This proposed legislation would eliminate the ability for insurers and medical providers to negotiate rates. It would remove the "regardless of setting" provision thereby allowing hospitals to set rates higher than non-hospital facilities. It would remove the requirement that providers sign bills with their license numbers, and the removal of the adherence to federal "safe harbor" regulations. Further, all provisions regarding treatment protocols, utilization review and the establishment of the HCSB would be deleted.

Section 2 creates a new section 30. The bill would eliminate authorization for preferred provider arrangements (PPA's), as well as all language pertaining to utilization review guidelines.

**HOUSE BILL 673****Filed By:** Rep. Eugene L. O'Flaherty**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Appointment of Impartial Physicians (c.152, §9C), Impartial Exams (§11A).

Section 1 of this refiled bill (formerly S.78) would create a new section (§9C) to allow an AJ or ALJ to appoint an impartial physician to examine and report on a claimant's condition prior to a conference or hearing. [Currently, under §8(4), an impartial physician can be requested at the conference stage only at the request of the insurer after pay without prejudice period has expired.]

This bill also replaces language for §11A on impartial exams. It would remove the c.398 requirement that an impartial exam be conducted whenever "a dispute over medical issues is the subject of a conference order." Under this bill, appointment of an impartial physician would be at the discretion of the AJ or ALJ. It also requires that the report indicate whether employment is the predominant contributing cause for mental or emotional disability.

This bill would expand the role of the impartial physician by requiring that the physician make a determination about causation, whether or not the determination can be made with a reasonable degree of medical certainty. Moreover, the causation standard would change from whether the work-related injury was the "major or predominant contributing cause" of the disability, to whether the work-related injury was "probably caused or was contributing cause" of the disability. The standard would therefore be eased.

The report from §9C must be entered into evidence at the hearing, and the current requirement that it be treated as *prima facie* evidence is eliminated. This means that the impartial report must not be the only medical evidence presented to the AJ, but that medical evidence from the employee's treating physician and insurer reports may be entered as well. The deposing party would pay the fee for any deposition. However, if the decision of the AJ is in favor of the employee, the cost of the deposition would be added to the amount awarded to the employee.

**HOUSE BILL 1241****Filed By:** Rep. Martin J. Walsh**Type of Bill:** NEW**Endorsed by Advisory Council:** No**Laws Affected:** Scar-Based Disfigurement (c.152, §36(k)), Burial Expenses (§33), Extension of Partial Incapacity Benefits (§35).

Section 1 of this new bill would eliminate the requirement that scar-based disfigurement appear on the face, neck or hands to be compensable. This would require compensation for all disfigurement, whether or not scar-based, regardless of its location on the body. Section 36(k) was amended by Chapter 398 to limit payments for purely scar-based disfigurement by requiring benefits only when the disfigurement is on the face, neck, or hands. Under this bill, compensation could not exceed the average weekly wage in the Commonwealth (at time of injury) multiplied by 29. Currently, the statute states that scar-based disfigurement compensation cannot exceed \$15,000.

Section 2 would require an insurer to pay for burial expenses when a worker has died, not to exceed eight thousand dollars. Currently, the statute requires the insurer to pay reasonable expenses of burial, not to exceed four thousand dollars.

Section 3 would amend Section 35 by adding additional select circumstances under which an administrative judge may extend the number of weeks under §35 (partial disability) benefits. These additional conditions are that the injured worker has returned to employment pursuant to an Individual Written Rehabilitation Plan, has been found unsuitable for vocational rehabilitation, has returned to employment at less than his pre-injury average weekly wage, or has a permanent partial incapacity.

**HOUSE BILL 1243****Filed By:** Rep. Martin J. Walsh**Type of Bill:** NEW**Endorsed by Advisory Council:** No**Laws Affected:** Federal Occupational Safety & Health Standards - Protecting State Employees

This new bill would require the Department of Labor & Workforce Development and the Division of Industrial [Occupational] Safety to apply the Federal Occupational Safety and Health Standards (OSHA) as minimum standards to protect workers employed at any state workplace.

**HOUSE BILL 1808****Filed By:** Rep. Shirley Owens-Hicks**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Impartial Physician - Appointment (c.152, §11A)

Section 1 of this refiled bill (previously H.3251) would amend §11A by not allowing an impartial physician to be appointed when the report of both the treating physician and the insurer's physician agree with respect to "diagnosis and etiology." (Etiology is the branch of medicine that deals with the causes of disease.)

Section 2 would limit the number of times an impartial medical examiner can be appointed to 5 times in any one month. It would further require that an insurer could not recommend the same examiner for more than a "majority of cases."

Section 3 would make any impartial medical examiner subject to the penalties provided in §14(3) (anti-fraud provisions) if they knowingly produce false or inaccurate reports to benefit the insurer.

**HOUSE BILL 2197****Filed By:** Rep. Anthony Petrucci**Type of Bill:** NEW**Endorsed by Advisory Council:** No**Laws Affected:** Scar-Based Disfigurement (c.152, §36(k)), Burial Expenses (§33), Temporary Total Benefits - Increase (§34).

Section 1 of this new bill would eliminate the requirement that scar-based disfigurement appear on the face, neck or hands to be compensable. This would require compensation for all disfigurement, whether or not scar-based, regardless of its location on the body. Section 36(k) was amended by Chapter 398 to limit payments for purely scar-based disfigurement by requiring benefits only when the disfigurement is on the face, neck, or hands. Under this bill, compensation could not exceed the average weekly wage in the Commonwealth (at time of injury) multiplied by 29. Currently, the statute states that scar-based disfigurement compensation cannot exceed \$15,000.

Section 2 would require an insurer to pay for burial expenses when a worker has died, not to exceed eight thousand dollars. Currently, the statute requires the insurer to pay reasonable expenses of burial, not to exceed four thousand dollars.

Section 3 would increase wage benefits for injured workers under §34 (Temporary Total) by restoring the benefit to 2/3 of average weekly wage (currently 60% of AWW). This bill would also extend the amount of time an injured worker could collect benefits under §34 by deleting the 156-week maximum that compensation is due under this section.

**HOUSE BILL 2198****Filed By:** Rep. Michael J. Rodrigues**Type of Bill:** NEW**Endorsed by Advisory Council:** No**Laws Affected:** Corporate Officers/Directors - Waiver of Rights (c.152, §1(4))

This new bill would clarify the "waiver of rights," as outlined in Form 153, that corporate officers or directors can exercise if they own at least 25% of the corporation's stock. Language in this bill would bar a corporate officer or director "any right created by statute, at common law, or under the law of any other jurisdiction for himself, his spouse, children, parents and any other member of his family or next of kin" against his employer or insurer for any damage or loss that is a result of injury.

Last year House Bill 4348 was signed into law allowing certain corporate officers or directors to exempt themselves from workers' compensation insurance coverage. A corporate officer who owns no less than 25% of issued and outstanding stock of said corporation are allowed to exercise this exemption by completing an affidavit (Form 153) and submitting it to the Department of Industrial Accidents.

**HOUSE BILL 2205****Filed By:** Rep. Martin J. Walsh**Type of Bill:** NEW**Endorsed by Advisory Council:** Supporting in "Concept"**Laws Affected:** Private Right of Action to Recover WC Coverage Payments (c.152, §25C)

This new bill would allow up to 10 people to bring a civil action against an employer to recover amounts which should have been paid in securing proper workers' compensation insurance as mandated by Chapter 152. Such a person seeking civil action could petition either the Attorney General's Office, the Commissioner of Insurance, or a superior court to hold a "probable cause hearing." At the hearing, it shall be *prima facie* evidence that such probable cause exists if it is shown that:

- an employee was paid any portion of wages in cash with no deductions or taxes withheld;
- no accompanying pay slip showing the wage payment and deductions as required by law;
- an individual was misclassified as an independent contractor when actually an employee;
- wages were not timely paid;
- the employer failed to withhold from the employee's wages all related state taxes; or
- employees have not been properly reported on certified payroll records as required by law.

If the decision shows that probable cause exists, the person who brought the petition shall serve a copy of the decision to any insurer that was entitled to collect amounts not paid and the persons shall simultaneously state any intention to file suit under this section. Any persons who prevail in an action shall be entitled to recover 25% of the amounts unlawfully not paid or \$25,000, whichever is less.



**HOUSE BILL 2380****Filed By:** Rep. Antonio Cabral**Type of Bill:** Refile**Endorsed by Advisory Council:** YES (with ABA language)\***Laws Affected:** Code of Judicial Conduct - Senior Judge, AJ's, and ALJ's (c.23F, §8)

This refiled bill (previously H.2648) would require the Senior Judge, the Administrative Judges and Administrative Law Judges to be subject to the Code of Judicial Conduct as promulgated by the Supreme Judicial Court. A previous version of this bill was endorsed by the Advisory Council in the Fiscal Year 2002 Annual Report.

**\*Note:** The Council previously supported House Bill 2648, which was refiled and modified during the 2001-2002 Legislative Session by Representative Antonio Cabral. The changes made to this bill reflect a technical amendment proposed by the Council that utilizes the American Bar Association's (ABA's) Model Code of Judicial Conduct for State Administrative Law Judges. Although the ABA's code only addresses conduct for ALJ's, the Council has recommended that this code also be applied to AJ's.

**HOUSE BILL 2381****Filed By:** Rep. Antonio Cabral**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Lump Sum Settlements (c.152, §48) - Approval

This refiled bill (previously H.2650) would require the insurer to notify an employer, with an experience modified policy, of any lump sum agreement, allowing the employer to attend any proceeding in which a lump sum is being presented for approval before their employee. Currently, insurance companies are not required to notify the employer of lump sum activity.

**HOUSE BILL 2382****Filed By:** Rep. Antonio Cabral**Type of Bill:** Refile**Endorsed by Advisory Council:** Yes\***Laws Affected:** Benefits for Specific Injuries (c.152, §36(k)) - Scar-Based Disfigurement

This refiled bill (previously H.2649) would eliminate the requirement that scar-based disfigurement appear on the face, neck or hands to be compensable. This would require compensation for all disfigurement, whether or not scar-based, regardless of its location on the body. Section 36(k) was amended by Chapter 398 to limit payments for purely scar-based disfigurement by requiring benefits only when the disfigurement is on the face, neck, or hands.

**\*NOTE:** In July of 2002, the Advisory Council sent a letter to Representative Greene and Senator Pacheco stating that the "Council continues to be receptive to amending Section 36(k) to allow compensation for scar-based disfigurement regardless of its location on the body." However, in reference to Senate Bill 2358, the Council noted that they could not reach a consensus on a SAWW multiplier to determine a maximum benefit "until a thorough cost-analysis can be conducted." House Bill 2382 would not affect the \$15,000 maximum benefit for scar-based disfigurement currently in the statute.

**HOUSE BILL 2388****Filed By:** Rep. Peter J. Larkin**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Lump Sum Settlements (c.152, §48) - Limits on Agreements

This refiled bill (previously H.3246) would limit when a lump sum agreement can discharge an employee's right to payment of future benefits. Under this proposed legislation, no lump sum agreement could be entered into or approved unless:

1. the employee has returned to work for at least 6 months, earning at least 75% of his/her pre-injury wage;
2. survivor benefits are claimed under §31;
3. the employee is determined by the AJ to be permanently and totally disabled;
4. or the employee becomes a domiciliary of another state.

**HOUSE BILL 2924****Filed By:** Rep. Robert M. Koczera**Type of Bill:** NEW**Endorsed by Advisory Council:** YES**Laws Affected:** Judicial Appointments - Judicial Performance Review (c.23E, §4)

Section 1 of this new bill, endorsed by the Advisory Council, would attempt to stagger judicial terms "naturally" by clarifying that newly appointed Administrative Judges (AJ's) be appointed to new six-year terms, rather than the current practice of being appointed to fill the remaining time-period of a vacant term. In theory, the current law could create a situation in which a newly appointed Judge would only be appointed to serve a 1-year term, if the slot they were filling was vacated after 5-years.

Section 2 of this proposed legislation would require the Senior Judge to review the performance of newly appointed Administrative Judges after their first 2-years of service. If the performance review supports the continuation of their term, the AJ may continue to serve the remainder of their term. However, if the performance review recommends against a continuation of their term, the performance review would be submitted to the Governor for appropriate action.

**HOUSE BILL 2930****Filed By:** Rep. Robert P. Spellane**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Serious and Willful Misconduct (c.152, §27) - Intoxication, Unlawful Use of a Controlled Substance

This refiled bill (previously H.2854) would amend §27 by barring workers' compensation benefits to employees who are injured while intoxicated or while using an illegal controlled substance as defined in §1 of Chapter 94C. Currently, §27 bars workers' compensation benefits to employees injured as a result of "serious and willful misconduct."

**HOUSE BILL 3293****Filed By:** Rep. Peter J. Larkin**Type of Bill:** Similar**Endorsed by Advisory Council:** No**Laws Affected:** Insurance Rates - Loss Cost - Competition (c.152, §53A)

This bill (similar to H.2115) would create a system of competitive rating for determining workers' compensation insurance rates. Like the current law, insurers would submit all their loss data to the designated rating organization and would adhere to the uniform classification system. The rating organization would develop a "loss cost" for each classification (e.g. roofers, clerical workers).

- "loss costs" are the historical aggregate data and loss adjustment expenses, developed and trended for each classification;
- the "loss cost" is expressed as a dollar amount per \$100 of Payroll;
- Example: The loss cost for a "roofer" might be \$6.00 and for a "clerical worker" \$.90.

Each carrier would develop its own "loss cost multiplier (LCM)." This factor takes into account the carriers expenses other than LAE, such as overhead, acquisition, marketing, profit, etc. LCM's will be multiplied by the loss cost to get the rate per \$100 or payroll.

$RATE = LOSS\ COST \times LCM$

- Example: If the loss cost for a roofer is \$6 and the carrier's LCM for roofers is 1.4 then the rate will be  $\$6 \times 1.4$  or \$8.40 per \$100 of payroll. If the loss cost for a clerical worker was \$.90 and the LCM for clerical workers was .90, the rate will be  $\$.90 \times .90$  or \$.81 per \$100 of payroll.

This new system of insurance pricing would apply to all new or renewed workers' compensation policies.

**HOUSE BILL 3482****Filed By:** Rep. John H. Rogers**Type of Bill:** NEW**Endorsed by Advisory Council:** No**Laws Affected:** Workers' Compensation Reinsurance Pool (c.152, §65C)

This new bill would require the Workers' Compensation Rating & Inspection Bureau of Massachusetts (WCRB) or its servicing carriers to assign no less than 20% of the total written premium in the Reinsurance Pool (Residual Market) to third party claims administrators (TPA's) located in Massachusetts. Said TPA's can have no common ownership with any insurer writing workers' compensation within the Commonwealth.

**HOUSE BILL 4458**

**Type of Bill:** Redraft of S.49, H.1241, H.2197, H.2205, H.2382, and H.2930

**Endorsed by Advisory Council:** No

**Laws Affected:** Comprehensive: Private Right of Action to Recover WC Coverage Payments (c.152, §25C); Scar-Based Disfigurement (c.152, §36(k)), Burial Expenses (§33), Serious and Willful Misconduct (c.152, §27) - Intoxication, Unlawful Use of a Controlled Substance

Section 1 of this redrafted bill would allow up to 10 people to bring a civil action against an employer to recover amounts which should have been paid in securing proper workers' compensation insurance as mandated by Chapter 152. Such a person seeking civil action could petition either the Attorney General's Office or a superior court to hold a "probable cause hearing." At the hearing, it shall be *prima facie* evidence that such probable cause exists if it is shown that:

- an employee was paid any portion of wages in cash with no deductions or taxes withheld;
- no accompanying pay slip showing the wage payment and deductions as required by law;
- an individual was misclassified as an independent contractor when actually an employee;
- wages were not timely paid;
- the employer failed to withhold from the employee's wages all related state taxes; or
- employees have not been properly reported on certified payroll records as required by law.

If the decision shows that probable cause exists, the person who brought the petition shall serve a copy of the decision to any insurer that was entitled to collect amounts not paid and the persons shall simultaneously state any intention to file suit under this section. Any persons who prevail in an action shall be entitled to recover 25% of the amounts unlawfully not paid or \$25,000, whichever is less. Any amounts recovered by the persons who filed the civil action under this section shall be deposited into the Workers' Compensation Trust Fund established pursuant to Section 65.

Section 2 of this bill would eliminate the requirement that scar-based disfigurement appear on the face, neck or hands to be compensable. This would require compensation for all disfigurement, whether or not scar-based, regardless of its location on the body. Section 36(k) was amended by Chapter 398 to limit payments for purely scar-based disfigurement by requiring benefits only when the disfigurement is on the face, neck, or hands. Under this bill, compensation could not exceed the average weekly wage in the Commonwealth (at time of injury) multiplied by 29. Currently, the statute states that scar-based disfigurement compensation cannot exceed \$15,000.

Section 3 would require an insurer to pay for burial expenses when a worker has died, not to exceed eight thousand dollars. Currently, the statute requires the insurer to pay reasonable expenses of burial, not to exceed four thousand dollars.

Section 4 of this redrafted bill would amend §27 by barring workers' compensation benefits to employees who are injured while intoxicated or while using an illegal controlled substance as defined in §1 of Chapter 94C. Currently, §27 bars workers' compensation benefits to employees injured as a result of "serious and willful misconduct."

**HOUSE BILL 4459****Type of Bill:** Redraft of H.2198**Endorsed by Advisory Council:** No**Laws Affected:** Corporate Officers/Directors - Waiver of Rights (c.152, §1(4))

This new bill would clarify the "waiver of rights," as outlined in Form 153, that corporate officers or directors can exercise if they own at least 25% of the corporation's stock. Language in this bill would bar a corporate officer or director "any right created by statute, at common law, or under the law of any other jurisdiction for himself, his spouse, children, parents and any other member of his family or next of kin" against his employer or insurer for any damage or loss that is a result of injury.

Last year House Bill 4348 was signed into law allowing certain corporate officers or directors to exempt themselves from workers' compensation insurance coverage. A corporate officer who owns no less than 25% of issued and outstanding stock of said corporation are allowed to exercise this exemption by completing an affidavit (Form 153) and submitting it to the Department of Industrial Accidents.

**HOUSE BILL 4465****Filed By:** Rep. Michael J. Rodrigues**Type of Bill:** Redraft of H.2380 and H.2924**Endorsed by Advisory Council:** YES**Laws Affected:** Industrial Accident Board Judges (c.23F, §8 - c.23E §4 - c.23E, §5)

House Bill 4465 would stagger judicial terms "naturally" by clarifying that newly appointed Administrative Judges (AJs) and Administrative Law Judges (ALJs) be appointed to new six-year terms, rather than the current practice of being appointed to fill the remaining time-period of a vacant term. This bill would also require the Senior Judge to review the performance of newly appointed AJs and ALJs after their first 2-years of service. Finally, this legislation would require the Senior Judge, the Administrative Judges and Administrative Law Judges to be subject to the Model Code of Judicial Conduct for State Administrative Law Judges, as promulgated by the American Bar Association.

**HOUSE BILL 4486****Filed By:** Rep. Michael J. Rodrigues**Type of Bill:** NEW**Endorsed by Advisory Council:** No**Laws Affected:** Workers' Compensation Study

This new bill would authorize the Joint Committee on Commerce & Labor to sit during the recess of the General Court to investigate and study the following legislation: S.28, S.29, S.40, S.47, S.51, S.52, S.61, S.76, S.101, S.107, H.297, H.305, H.498, H.670, H.671, H.672, H.676, H.1808, and H.2381 relative to workers' compensation.

**HOUSE BILL 4552****Filed By:** Rep. Michael J. Rodrigues**Type of Bill:** Redraft of H.3482**Endorsed by Advisory Council:** No**Laws Affected:** Workers' Compensation Reinsurance Pool (c.152, §65C)

House Bill 4552 would require the Workers' Compensation Rating & Inspection Bureau (WCRIBM) to initiate a 3-year pilot project whereby Third Party Administrators (TPAs), meeting specific criteria, would service a segment of the policies within the Assigned Risk Pool. During the first and second years of the pilot project, qualified TPAs would be assigned to service \$18M and \$24M respectively, of the total written Pool premium which is approximately valued at \$200M.

Currently, employers in Massachusetts who are unable to obtain workers' compensation insurance in the voluntary market can obtain coverage through a reinsurance pool known as the "Assigned Risk Pool." Nearly 60% of the total written Pool premium is assigned to 10 Voluntary Direct Assignment Carriers (VDAC). The VDACs handle the claims administration and are personally responsible for any losses on these policies. The remaining 40% of Pool premium is issued among three designated servicing carriers whereby losses are distributed among the remaining members of the Pool.

## ***SENATE BILLS:***

### **SENATE BILL 28**

**Filed By:** Senator Robert A. Antonioni

**Type of Bill:** New Legislation

**Endorsed by Advisory Council:** No

**Laws Affected:** Continuation of Temporary Total Benefits (c.152, §34)

This new legislation would extend the benefits for injuries compensable under Section 34 (temporary total) assuming there has been no discontinuance or modification order of an administrative judge. Currently, §34 benefits are equal to 60% of the injured worker's average weekly wage and are limited in duration to 156 weeks. Senate 28 would allow an injured worker to receive additional benefits upon the exhaustion of their section 34 benefits. This additional compensation would be equal to 45% of their average weekly wage "pursuant to Section 35." The maximum benefits period for §35 injuries is 260 weeks, but may be extended to 520 weeks.

### **SENATE BILL 29**

**Filed By:** Senator Robert A. Antonioni

**Type of Bill:** New Legislation

**Endorsed by Advisory Council:** No

**Laws Affected:** Workers' Compensation Dependency Benefits (c.152, §35A)

This new legislation would amend §35A, which provides additional compensation to injured workers who have dependents. Currently, §35A provides additional compensation of \$6 per/week to injured workers who have persons dependent upon them for injuries occurring under §34, §34A, and §35. No weekly payments under this section can be greater than \$150 per week when combined with the compensation due under §34, §34A, and §35. Senate Bill 29 would provide injured workers additional compensation of \$15 per/week to injured workers who had persons dependent upon them. This bill would also cap weekly payments at \$300 when combined with the compensation due under §34, §34A, and §35.

### **SENATE BILL 40**

**Filed By:** Senator Robert S. Creedon, Jr.

**Type of Bill:** Refile

**Endorsed by Advisory Council:** No

**Laws Affected:** Comprehensive Bill (c.152, §1, §10, §7A, §10A, §13A, §14, §34, §35, §35B)

#### **1. Definitions (§1(1)) - Average Weekly Wage**

Section 1 of this refiled bill (formerly S.42) would amend the definition of average weekly wage by requiring that the average weekly wage for §35 claimants, who have returned to work and suffered re-injury, must be calculated using the wage the claimant was earning at the time of the original injury.

#### **2. Conciliation (§10(6)) - Last Best Offer**

Section 2 would repeal §10(6) which requires that each party submit written offers stating the amount of benefits believed to be owed in cases involving a request for additional compensation, or to modify/discontinue benefits.

***CONTINUED ON NEXT PAGE***

## ***SENATE 40 CONTINUED***

### **3. Presumptions (§7A) – Employee Unable to Testify**

Section 3 would amend §7A by stating that when an employee dies, is killed or becomes mentally unable to testify as the result of a workplace injury, a presumption is created that the claim complies with all procedural requirements, and the injury was not the result of a willful intention of the employee to injure or kill himself.

### **4. Conference (§10A(2)) - Last Best Offer**

Section 4 would amend §10A(2) by repealing the requirement that the administrative judge, at conference, implement one of the offers rendered at conciliation. It would require that the insurer submit an offer two days before the conference to the claimant. Unless the offer is accepted, the insurer would not be required to pay a referral fee under §13A.

### **5. Attorney's Fees (§13A) – Last Best Offer**

Section 5 would amend §13A dealing with attorney's fees. This bill would remove all reference to the last best offer submissions.

### **6. Fraudulent Conduct (§14) - Duty to Reveal Knowledge of Fraud**

Section 6 would amend §14 dealing with fraudulent actions. This section states that a person who knowingly makes a false or misleading statement or conceals knowledge of any event affecting the payment of benefits will be punished by five years imprisonment, *if they were required by law to reveal the matter*. Presumably, this is to ensure the protection of privileged information (e.g., information protected by the attorney-client privilege).

### **7. Total Incapacity (§34) – Percent Allowed for Total Injury**

Section 7 of this bill would amend §34 and require the insurer to pay the injured employee 60% of his average weekly wage (AWW) before the injury, but not more or less than the maximum or minimum weekly compensation rate, if the injury is considered total. If the AWW is found to be less than the minimum weekly compensation rate, it would then be increased to equal the AWW.

### **8. Benefits (§35) - Maximum Amount**

Section 8 would amend §35 by eliminating the requirement that partial disability benefits cannot exceed 75% of §34 benefits.

### **9. Benefits (§35B) - Subsequent Injury**

Section 9 would amend §35B to require that an injured employee who returns to work for at least 2 months and suffers another injury, will receive benefits at the rate currently in place, whether or not the new injury is a recurrence of the former injury. Section 3 allows the employee to opt out of this section if it would subject them to a lower rate of compensation.

### **10. Benefits (§35) - Extension of Benefits**

Section 10 would allow the extension of §35 benefits from 260 to 520 weeks if a judge finds, or an insurer agrees, that the injured worker is "incapable of earning at least ninety percent of the average weekly wage before the injury after having been deemed unsuitable for vocational rehabilitation services by the Office of Education and Vocational Rehabilitation under Section 30G or, having been deemed suitable for vocational rehabilitation services by said office completed an appropriate rehabilitation program pursuant to section 30G."



**SENATE BILL 47****Filed By:** Senator John A. Hart, Jr.**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Attorney's Fees (c.152, §13A(10)), Agreements to Pay Benefits (§19), Temporary Total Disability (§34), Permanent and Total Incapacity (§34A)

Section 1 of this refiled bill (formerly S.66 and identical to H.670 filed in this session) would allow attorneys to collect fees for advancing an employee's rights under §75A (preferential hiring of injured workers) and §75B (protections against handicap discrimination), in addition to any attorney's fees owed under §13A.

Section 2 of this bill adds two new subsections to §19. It would allow any administrative judge, administrative law judge or conciliator to approve any agreement to pay benefits authorized by §19. It would also allow an agreement to include a pay without prejudice clause.

Section 3 of this bill would amend §34 and require the insurer to pay the injured employee 60% of his average weekly wage (AWW) before the injury, but not more or less than the maximum or minimum weekly compensation rate, if the injury is considered total. If the AWW were found to be less than the minimum weekly compensation rate, it would then be increased to equal the AWW.

Section 4 of this bill would amend §34A and require the insurer to pay the injured employee two-thirds of his AWW before the injury, but not more or less than the maximum or minimum weekly compensation rate if the injury is considered permanent and total. If the AWW were found to be less than the minimum weekly compensation rate, it would then be increased to equal the AWW.

**SENATE BILL 49****Filed By:** Senator John A. Hart, Jr.**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Benefits for Scar-Based Disfigurement (c.152, §36)

This refile bill (formerly S.74) would eliminate the requirement that scar-based disfigurement appear on the face, neck or hands to be compensable. Compensation would be required for all disfigurement, whether or not scar-based, regardless of its location on the body.

Section 36(k) was amended by Chapter 398 to limit payments for purely scar-based disfigurement by requiring benefits only when the disfigurement is on the face, neck, or hands.

**SENATE BILL 51****Filed By:** Senator John A. Hart, Jr.**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Definition of Average Weekly Wage (c.152, §1(1)), Eliminate Consideration of Last Best Offer in Awarding Attorney's Fees (§13A(4))

Section 1 of this refiled bill (formerly S.77) addresses injured employees who return to work (without a lump sum settlement) and receive wages that are less than the pre-injury wages. This bill would apply the prior average weekly wage to any subsequent period of incapacity, whether or not such incapacity was the result of a new injury, or subsequent injury as set forth in §35B.

Section 2 of this bill would eliminate consideration of the last best offer in awarding attorney's fees when the insurer files for discontinuance of benefits or refuses initial payment. Currently, the claimant's attorney is only entitled to payment if the administrative judge accepts the offer of the claimant or the amount submitted by the conciliator.

**SENATE BILL 52****Filed By:** Senator John A. Hart, Jr.**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Rate of Reimbursement - Health Care Services (c.152, §13), PPA's (§30)

Section 1 of this refiled bill (formerly S.79) deletes the current language in §13 and replaces it with simpler language. It states that the Rate Setting Commission (now called Division of Health Care Finance & Policy) must establish the maximum reimbursement rates for hospitalization and all other health care services, and that no insurer may be held liable for any charge greater than those established rates. This proposed legislation would eliminate the ability for insurers and medical providers to negotiate rates. It would remove the "regardless of setting" provision thereby allowing hospitals to set rates higher than non-hospital facilities. It would remove the requirement that providers sign bills with their license numbers, and the removal of the adherence to federal "safe harbor" regulations. Further, all provisions regarding treatment protocols, utilization review and the establishment of the Health Care Services' Board would be deleted.

Sections 2 and 3 would eliminate authorization for preferred provider arrangements (PPA's) as well as all language pertaining to utilization review guidelines. Section 35 (partial incapacity benefits) would also be amended by eliminating the maximum rate of benefits (75% of §34 benefits). It would eliminate the duration of §35 benefits as well.

**SENATE BILL 60****Filed By:** Senator Brian P. Lees**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Definition of Employee (c.152, §1(4)), Elective Coverage - Corporate Officers

This refiled bill (formerly S.56) would make coverage elective for corporate officers and employees who are immediate family members, who are also sole executive officers. A mistake was made in the drafting of this legislation as several sentences were left out.

**SENATE BILL 61****Filed By:** Senator Brian P. Lees**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Employer Fines Reduction (c.152, §25C), Preferential Hiring (§75A), Employee Definition - Elective Coverage of Corporate Officers (§1(4))

Section 1 of this refiled bill (formerly S.57) would amend §25C(2) regarding fines for failing to secure workers' compensation insurance. It would add provisions allowing the DIA Commissioner to reduce employer fines to an amount no lower than \$250 following a hearing in which there is a finding that:

- (a) the fine would have a severe negative impact on the cash flow or financial stability of the business;
- (b) weekends and holidays interrupted the employer's ability to secure coverage in a more timely fashion;
- (c) the business was unable to secure voluntary coverage, thus delaying their application to the Massachusetts Workers' Compensation Assigned Risk Pool for coverage; or
- (d) the amount of annual premium for worker's compensation coverage is less than the amount of fines imposed by the DIA under the stop work order.

Section 2 of the bill, would amend §75A, which requires employers to give preference in hiring to injured employees applying for re-employment. This bill would relieve the rehiring requirement if the injured employee has been employed by another employer for more than six months since the date of injury.

Section 3 of the bill would amend §1(4). It would make the coverage of corporate officers elective.

**SENATE BILL 72****Filed By:** Senator Brian P. Lees**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Employee Leasing Companies - Exclusive Remedy (c.152, §15)

This refiled bill (formerly H.1138 in the 1999-2000 session and identical to S.88 filed in this session) would amend §15 by barring an action at law for damages for personal injuries or wrongful death by an employee towards an employee leasing company and its client company, if each are in compliance with the requirements of Chapter 152. Currently, §15 only provides protection to "the insured person employing such employee and liable for payment of the compensation provided by this chapter for the employee's personal injury or wrongful death and said insured person's employees."

**SENATE BILL 76****Filed By:** Senator Thomas M. McGee**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Comprehensive Bill (c.152, §1, §6, §7, §8, §13A, §28, §29, §30, §31, §33, §34, §34A, §34B, §35, §35D, §35E, §36, §50)

This refiled bill (formerly H.2284) seeks to amend many aspects of Chapter 152.

Section 1 of this bill would amend the definition of "Average Weekly Wage" by specifying that if an injured employee is employed by more than one *employer*, the total earnings from the several *employers* should be considered in determining average weekly wage. Currently the law is more specific in stating that if the injured employee is employed by more than *one insured employer or self-insurer* rather than "employer" as proposed by this legislation. Section 1 of this bill also states that weeks in which an employee received less than *four hours* in wages is considered lost time for determining average weekly wage. Currently, the law considers lost time as weeks when an employee receives *less than five dollars in wages*.

Section 2 of this bill would amend §1(7A) regarding the definition of "Personal Injury" in dealing with mental or emotional disabilities. Currently, "Personal Injuries" include mental or emotional disabilities only where the *predominant contributing cause* of such disability is an event or series of events occurring within any employment. This bill would replace "the predominant contributing cause" with "a significant contributing cause."

Section 3 of this bill would substantially increase the fines for employers who violate the provisions of §6 with regard to the reporting of the notice of injury to the DIA, the employee, or insurer. Currently, if an employer violates this provision three or more times they are required to pay a fine of \$100 for each violation. This bill would eliminate the necessity that a violation occurs three or more times before a penalty is issued. Fines would be issued as follows: \$100 for first violation; Subsequent violations within a year are increased \$100 for each subsequent violation; If an employer fails to make notice to the DIA, employee, and insurer, it must pay additional penalty to the DIA of \$1,000 into the Special Fund and \$1,000 to the employee; If an employer fails to make notice to the DIA, employee, and insurer within 90 days, an additional penalty of \$10,000 will be assessed.

Section 4 would amend §7(2) by increasing the penalty placed on insurers who fail to begin payment of weekly benefits or notify parties of refusal to pay benefits within 14 days of receipt of the employer's First Report of Injury. This bill would require the insurer to pay the employee an amount of \$200 or their compensation rate (whichever is higher). If the insurer still fails to begin payments or make such notification within 60 days, they must pay a penalty of \$1,000 to both the Special Fund and to the employee.

Section 5 and 6 of this bill would amend §8 by decreasing the "pay without prejudice" period to 90 days. Currently, when an insurer pays a claim, it may do so without accepting liability for a period of 180 days. This pay without prejudice period establishes a window where the insurer may refuse a claim and stop payments at its will. Up to 180 days, the insurer can unilaterally terminate or modify any claim as long as it specifies the grounds and factual basis for so doing. The purpose of the pay without prejudice period is to encourage the insurer to begin payments to the employee instead of outright denying the claim.

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**SENATE 76 CONTINUED**

Section 7 of this bill would allow the pay without prejudice period to be extended upon agreement by the parties in 90-day increments not to exceed one year. Currently, pay without prejudice extensions are not required to be set at 90-day increments.

Section 8 of this bill would amend §13A(5). This section assesses an insurer a penalty of \$3,500 (plus necessary expenses) whenever an insurer files a complaint or contests a claim for benefits and then later accepts the claim or withdraws the complaint within 5 days. This section of the proposed legislation would increase the number to 10 days.

Section 9 of this bill would amend §28, paragraph 1, which addresses injuries caused by serious and willful misconduct of the employer. This section of the proposed legislation would further define "willful misconduct" as a "knowing and willful violation of the Federal and/or State O.S.H.A. standards." Currently, if an employee is injured by serious and willful misconduct by the employer, they will receive double compensation for their injuries.

Section 10 of this bill would amend §29 dealing with the required period of incapacitation. Current law states that no compensation pursuant to §34 and §35 shall be paid for any injury which does not incapacitate the employee from earning full wages for a period of 5 or more calendar days. If incapacity extends for a period of 21 days or more, compensation is paid from the date of the onset of the incapacity. This bill decreases this 21-day period to *5 days or more*.

Section 11 of this bill would amend §30, which requires the insurer to furnish medical and hospital services, and medicines if needed. Except for the first appointment, the injured worker may select a treating physician and may switch to another such professional *once*. This bill would allow the injured worker the option of switching physicians *twice*.

Section 12 would amend §31 covering death benefits for dependents. Current law provides the widow or widower, that remains unmarried, 2/3 of the average weekly wage (AWW), but not more than the state's AWW or less than \$110 per week. They shall also receive \$6 per week for each child (this is not to exceed \$150 in additional compensation) of the deceased employee. This bill would increase the minimum amount a widower is entitled, to \$200 per week and \$12 more a week for each child of the deceased employee.

Section 13 would amend §33 regarding burial expenses for deceased employees. Currently, the insurer is required to pay reasonable expenses for burial, not exceeding \$4,000. This bill would increase the amount the insurer is required to pay for burial expenses not to exceed \$6,000.

Section 14 would increase the weekly compensation for total incapacity (§34) benefits. Compensation would increase from the current 60% to 2/3 of average weekly wage. Duration would increase from the current 156 weeks to 208 weeks.

Section 15 would amend §34A pertaining to permanent and total incapacity. When the incapacity for work resulting from the injury is both permanent and total, an insurer is required to pay an injured employee a weekly compensation equal to 2/3 of their average weekly wage before injury, but not more than the maximum weekly compensation rate nor less than the minimum compensation rate. Current law requires that this payment be made "following payment of compensation in §34 and §35." This section of H.2854 would delete this requirement.

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### ***SENATE 76 CONTINUED***

Sections 16 and 17 would amend §34B pertaining to supplemental benefits for §31 or §34A. This bill would expand supplemental benefits to include both §34 and §35.

Section 18 would amend §35 pertaining to partial incapacity benefits, by raising the wage benefits for injured workers to  $\frac{2}{3}$  AWW of the difference between their AWW before the injury and the weekly wage they are capable of earning after the injury, *but not more than the maximum weekly compensation rate*. Currently for §35, compensation is 60% of the difference between the employee's AWW before the injury and the weekly wage earning capacity after the injury. This amount cannot exceed 75% of temporary benefits under §34 if they were to receive those benefits.

Section 19 would amend the duration allowed for §35 benefits. Currently, the maximum benefit period for partial disability is 260 weeks, but may be extended to 520 weeks. This bill would increase the maximum benefit period to 442 weeks and could be extended at "the discretion of an administrative judge."

Section 20 would amend §35A, which provides additional compensation to injured workers who have dependents. Currently, §35A provides additional compensation of \$6 per/week to injured workers who have persons dependent upon them for injuries occurring under §34, §34A, and §35. No weekly payments under this section can be greater than \$150 per week when combined with the compensation due under §34, §34A, and §35. This section of Senate 76 would provide injured workers additional compensation of \$12 per/week to injured workers who had persons dependent upon them. This bill would also cap weekly payments at \$250 when combined with the compensation due under §34, §34A, and §35.

Section 21 of this bill would amend §35D(5) and require that implementation of this section be subject to §8. Employment would be defined as a job that the employee is physically and mentally capable of performing, as long as it relates to the employee's work experience, education, or training either before or after the injury.

Section 22 of this bill would amend §35E. It would require that any person receiving old age benefits pursuant to federal social security law or receiving pension benefits paid by an employer should not be entitled to benefits under §35. This is unless the employee can establish that they would have remained active in the labor market.

Section 23 of this bill would amend §36(k). It would require that for bodily disfigurement, compensation will not exceed \$20,000 and will be payable in addition to other sums outlined in this legislation.

Section 24 of this bill would amend §50. Payments required by order that are not made within 60 days of being claimed by employee, dependent or other party would accrue interest at a rate of 12% per year. If sums include weekly payments, then interest will accrue on each unpaid weekly payment.

**SENATE BILL 88****Filed By:** Senator Michael W. Morrissey**Type of Bill:** Refile**Endorsed by Advisory Council:** No**Laws Affected:** Employee Leasing Companies - Exclusive Remedy (c.152, §15)

This refiled bill (formerly H.1138 in the 1999-2000 session and identical to S.72 filed in this session) would amend §15 by barring an action at law for damages for personal injuries or wrongful death by an employee towards an employee leasing company and its client company, if each are in compliance with the requirements of Chapter 152. Currently, §15 only provides protection to "the insured person employing such employee and liable for payment of the compensation provided by this chapter for the employee's personal injury or wrongful death and said insured person's employees."

**SENATE BILL 101****Filed By:** Senator Marc R. Pacheco**Type of Bill:** Refile**Endorsed by Advisory Council:** No - Senate Bill 2358 was discussed in detail at the 6/12/02 AC meeting but members were unable to reach a consensus. A letter was sent to Commerce & Labor stating concern with the adequacy of the current rates.**Laws Affected:** Reimbursement Rates for Physician and Hospital Services (c.118G, §7), Scar-Based Disfigurement (c.152, §36)

Section 1 of this refiled bill (formerly S.2358) would amend c.118G, §7 by adding a new paragraph requiring the Division of Health Care Finance & Policy (DHCFP) to set rates for physician and hospital services paid for under c.152 at a "usual and customary fee" for any such health care service. Current language requires the Division to set these rates, which are determined by a regulatory process that promulgates in fee schedules (114.3 CMR 40.00) and other formats that ensure a public process. Rates are currently negotiable among the insurer, employer, and the health care service provider (c.152, §13).

Section 2 of this bill would eliminate the requirement that scar-based disfigurement appear on the face, neck or hands to be compensable. Senate Bill 101 would require compensation for all disfigurement, whether or not scar-based, regardless of its location on the body. The proposed legislation further states that payments for these type of injuries could not exceed the average weekly wage in the Commonwealth (at date of injury) multiplied by 29 [\$882.57 (SAWW) x 29 = \$25,594.53 (maximum benefit)]. Current language in the statute limits payments for scar-based disfigurement from exceeding \$15,000.

**SENATE BILL 107****Filed By:** Senator Charles E. Shannon, Jr.**Type of Bill:** New Legislation**Endorsed by Advisory Council:** No**Laws Affected:** Employee Financial Assistance Fund (c.10, §67), Return to Work Disagreement - Independent Physician (§45)

Section 1 of this new legislation would create an "Employee Financial Assistant Fund" that would be credited pursuant to §45. Monies expended from this fund would only be for purposes of §45. Under Section 45, benefits of an employee may be suspended unilaterally for the refusal to submit to an examination by a physician of the employer or insurer's choice.

Section 2 of this bill would add a new paragraph to §45 allowing an employer to require (at their own expense) an examination of an employee, by a physician selected by the employer, if the employee's physician has previously reported in writing that employee is able to return to work. If the employer's physician disagrees with the employee's physician, the employee and the employer must agree to abide by the results of a third examination by an independent physician. Section 2 would also require each employer in the Commonwealth to annually pay 1% of their annual gross payroll into the "Employee Financial Assistant Fund" created above in Chapter 10. Each employee in the Commonwealth may pay into this fund no more than 1% of their annual gross wage. An employee who contributes to this fund is eligible to receive financial assistance from the fund in accordance with regulations promulgated by the Commissioner.

**SENATE BILL 123****Filed By:** Senator Steven A. Tolman**Type of Bill:** New Legislation**Endorsed by Advisory Council:** No**Laws Affected:** Benefits for State Social Workers Resulting From Acts of Violence (c.30, §58)

This new legislation would compensate state employees who receive bodily injuries resulting from acts of violence by children in their custody or parents of said children. If eligible for workers' compensation benefits, these injured state employees would receive the difference between the weekly cash benefits entitled under Chapter 152 and their regular salary. The affected employee's absence would not be charged against their available sick leave credits. Current law allows this benefit to state employees who receive bodily injuries resulting from acts of violence from patients or prisoners only.